



Bar Leadership Changes

At the Annual Meeting of the Westmoreland Bar Association held on Monday, April 3, 2000, Diane E. Murphy assumed the Presidency of the Bar Association from Richard F. Flickinger.

A sole practitioner with offices in New Alexandria and Greensburg, Diane is a 1979 graduate of Penn State University with a B.A. in Theater Arts. She earned her law degree from Ohio Northern University and has been practicing in Westmoreland County for 15 years.

Diane has been a member of the Board of Directors and attorney for the Westmoreland County 4-H since 1998. She previously served as President of the Greensburg Business and Professional Women's Club, District Director of District 3 for Business and Professional Women, Inc., and as President of the Board of Directors for Laurel Mountain's Chapter-Alzheimer's Association.

Diane will serve a one-year term as President.

OTHER ELECTION RESULTS

Timothy J. Geary was elected Vice President for the 2000-2001 term. In a general election James R. Silvis was chosen to fill the vacant Director seat on the board.



THE 2000-2001 BOARD OF DIRECTORS, FROM LEFT TO RIGHT: MILT MUNK, BOB JOHNSTON, TIM GEARY, DIANE MURPHY, JIM SILVIS, RICH FLICKINGER, JOHN CAMPFIELD AND DIANE KRIVONIAK. (MISSING FROM PHOTO: AARON KRESS)

Continuing to serve on the board are President-Elect John Campfield, Directors Robert I. Johnston and Aaron M. Kress, Past President Richard F. Flickinger, Treasurer Milton V. Munk, Jr., and Secretary/Executive Director Diane Krivoniak.

Edward E. Gilbert and Michael A. Johnson were elected to serve five-year terms on the Membership and Building Committees, respectively.



President Diane Murphy accepts the gavel from Past President Richard Flickinger

AWARD WINNERS ON PAGE 4 MORE PHOTOS ON PAGE 6

President's Message

WBA: The Icing on Your Cake

by Diane E. Murphy

When learning I had become President of the WBA, one of our Westmoreland County lawyers, employed by the county, congratulated me. He mentioned he was not a member of the association because he didn't think there was anything the WBA could offer him. He asked me what the WBA had to offer that he couldn't get



through his county office at the Courthouse. If I could come up with something to benefit him then he would join the county bar association.

I admit I was at a loss for words, and his question has bothered me ever since. I considered all the perks and benefits he receives via his full-time position with the county, so what more was he looking for? And why did he think that the WBA couldn't provide it for him?

He could pay his own Pennsylvania Bar Association dues and he doesn't need the CLE discount for Westmoreland Bar Association members. He is only interested in CLE seminars directly relating to his area of practice and those are paid for out of his office's budget.

After much thought, I realized that one of the things he is missing is the benefit of the fun and enjoyment we all have when we come together for any of our events. He

isn't able to get that anywhere else—that feeling of camaraderie and the building of lifetime friendships like those among all our diverse members of our association. It is one of the real services promoted by the Westmoreland Bar Association. Our county offers a bench and bar that few counties, if any, could ever surpass. The congeniality and respect between our colleagues make this evermore stressful profession a lot more tolerable. This is no more evident than at the Bench/Bar Conference, the quarterly meetings, fall gathering and other outings planned by the WBA.

We can become acquainted with a wide array of personalities who practice and specialize in everything from municipal law to family law to criminal law to personal injury law, and on and on. From these individuals I have gained a wealth of information and enjoyed sharing a multitude of courtroom experiences and anecdotes. I feel I am constantly receiving a well-rounded education within my profession as well as of life experiences from the members, no matter what the length of their time in practice.

The one common piece of advice I have received from some of the past presidents of the WBA is to have fun during

my year as president. I cannot imagine why I would not have as much fun, if not more, than I have in the past because I have always found enjoyment in my involvement in the bar association activities.

This coming year should be no different because we expect the best Bench/Bar Conference ever, with the largest attendance yet. We hope to have the same high-quality events, such as golf outings in the summer, the fall gathering, the holiday dinner dance and the quarterly meetings, as previously scheduled in the past. The Young Lawyers Committee and the Westmoreland Bar Foundation have additional events and services to bring more of a variety of

benefits to our members.

So, to my friend who was mentioned in the beginning of this article, this challenge is to you. I dare you to join the WBA, attend the events we schedule and

then try to say that you didn't enjoy or get any benefit from being a member. You may get your cake from your office, but the Westmoreland Bar Association is certainly the icing on that cake.

Camaraderie and building lifetime friendships are the real services promoted by membership in the WBA.

Farewell

“... and a red Ferrari”

by Richard F. Flickinger, Past President

There’s a sign my brother-in-law has hanging over his bed,” droned the speaker. I was in Chicago attending the Bar Leaders Institute to which the WBA had graciously sent me, in the hopes it would help me in my forthcoming year as President. He continued, “It reads, ‘Give me the courage to change the things that need to be changed, the strength to keep what cannot be changed ...’”

“Oh boy, is this going to be a hackneyed lecture,” I muttered to myself.

“... and a red Ferrari!”

Suddenly I was awake. Mention cars, and I’m alert! Especially a Ferrari! Of course, I thought, I’ll never own a Ferrari, but at least this fellow isn’t going to give the kind of lecture I had just envisioned.

After having served as your president, I understand his message. I have been given a Ferrari to drive for a year—not a red one, not a real one—but the experience has been exhilarating.

Now that you’re attentive, please accept my apologies. This article is not going to be about cars; I can’t write like *Click and Clack*. It’s about you—the Westmoreland Bar Association. I’ll try not to be unduly metaphoric.

The WBA is a Ferrari among bar associations. Not a Mack trailer truck that by sheer size and weight controls the road; not a

Ford Festiva that can’t get much respect anywhere it goes (when it goes); but a powerful, highly admired and well-respected machine.

Our physical presence is an attractive headquarters building.

(All right, it may be more aptly compared to a Dodge Caravan, but when you have to be within a half block of the courthouse, you must live with some limitations). The building is nicely decorated, it is well utilized, and ... the mortgage is completely paid. This was quite something to accomplish within ten years from the day the building was bought, and was possible only through the efforts and cooperation of all of our members.

Our association is powerful. We have lots of members who contribute—some a little, more quite a bit—but the support of all is what is needed. There are many of you who worked on behalf of the Association in ways I am not even aware—thank you—because there is no way I could even begin to comprehend everything that must be done. I appreciate what you have done without being asked.

We are highly admired. At the annual County Conference of Bar Leaders, sponsored by the

Pennsylvania Bar Association, the WBA is at the forefront. It seems that in a majority of cases when ideas are presented, we’ve “been there, done that.” We are looked to for help by other bar associations, and they enjoy working with us.



▲ Our immediate past president does not own a Ferrari. We heard he has a Chevrolet Corvette, but it is in the shop for extended repairs. We were able to obtain this candid snapshot taken late last year of him, his wife, Roxana, and their sons, Allen and Philip, informally gathered around their 1929 Model A Ford touring car.

We are well-respected. Lou Teti, president of the Pennsylvania Bar Association, visited us three times last year. I had the opportunity to dine with justices of the Supreme Court of Pennsylvania. The legislators serving various parts of Westmoreland County have learned that we are available through our Legislative Pipeline to help them with problems faced by

continued on page 15

... and the Award goes to ...

Richard H. Galloway

PRESIDENT'S AWARD FOR PROFESSIONALISM

The President's Award for Professionalism is presented to members of the Westmoreland Bar Association who best exemplify the highest standards of the profession with regard to the practice of law.

At the Annual Meeting on April 3, Richard H. Galloway was recognized for his ethics and integrity; competence and dedication to the practice of law; civility; service to the bar and its members; and dedication to the improvement of the practice of law.

Moved to the point of being speechless when his name was announced, Dick was glad his wife, Janice, daughter Lisa, and son-in-law, Jeff were there with him to share in the honor.

"It clearly is the high point of my professional career," said Dick. "Although I have had the opportunity to serve the organized Bar in a number of capacities both on the state and local level, and have had some success in my chosen niche as a trial lawyer, it was extremely pleasant and gratifying to receive this award from my Westmoreland County colleagues who know me the best and whose opinion I highly value."

A partner in the law firm of QuatriniRaffertyGalloway, Dick began practicing law in 1965. He is a former member of the Pennsylvania Bar Association House of Delegates and Board of Governors and is presently the



▲ Award-winner Dick Galloway (center) with Past President Richard Flickinger (left) and President Diane Murphy (right).

Chair of the state Legislative Committee.

He has served as President of the Westmoreland Bar Association, the Westmoreland Academy of Trial Lawyers, and the Western Chapter of the Pennsylvania Trial Lawyers Association. He was appointed as a Fellow of the American College of Trial Lawyers in 1999 and currently serves on the Board of Directors of Laurel Legal Services and the Pennsylvania Bar Institute.

A graduate of Lehigh University and the University of Pittsburgh School of Law, Dick and his wife, Janice, reside in Delmont. When not working you'll find them aboard the *Y Baban* sailing the waters of the Chesapeake.

Dick's advice to those interested in following in his footsteps as winners of the President's Award is to try to be a decent person and a good lawyer. "The rest will fall into line," he said. "Also, it may help to schmooze the committee that decides who the recipient will be!"

David J. Millstein

PRO BONO ATTORNEY OF THE YEAR

For David J. Millstein, the 2000 recipient of the Westmoreland Bar Foundation's Pro Bono Attorney of the Year award, doing *pro bono* work is not an option, it's an obligation.

"I have always believed that lawyers have a constant obligation to help those who cannot help themselves," said David. "It is the highest and best use of a lawyer's skill, and I am very gratified to be honored for my efforts in that regard."

Presented the award at the Annual Meeting held April 3, David admitted it felt "pretty damn good, actually," to receive the honor.

According to Pro Bono Coordinator Iva Munk, David was



chosen for the award “because of his generous donations of time—his most valuable asset.”

His generosity is also being recognized by the Pennsylvania Bar Association. David is one of nine attorneys across the state who will be honored with the PBA Individual Pro Bono Award in conjunction with the PBA Annual Meeting on May 12.

As a dual award winner he has no pointers for future awardees. “I can barely conduct my own life, much less offer advice to others,” he said. “Even so, I can’t imagine *not* being involved in Pro Bono. It is too much a part of who I am.”

The Hebrew word *Tzedakah*, which means “righteousness,” best describes David’s commitment to *pro bono* work. “Such stuff is not charity, it’s righteousness—the right thing to do. There is nothing more gratifying than the feeling of having done something nice for someone ‘just because.’”

Being honored by both the WBF and PBA in the same year, said David, “is nice, very nice. It means a lot to me, but it would mean even more if it came with a free pizza.”

Fee Dispute Committee

COMMITTEE OF THE YEAR



◀ Harvey Zalevsky, Chair of the Fee Dispute Committee, and part-time flamenco dancer, accepts the Committee of the Year award at the Annual Meeting.

James A. Wells

YOUNG LAWYER OF THE YEAR

James A. Wells, an associate of Belden, Belden, Persin and Johnston, was recognized as the Outstanding Young Lawyer of 2000 at this year’s Annual Meeting.

This award is given to the young lawyer who best exemplifies outstanding leadership and distinguished service to the legal profession and the community.

Jim is a past Chair of the Young Lawyers’ Committee and is the present Chair of the Boy Scout Law Explorer’s Post where his primary responsibility is educating post members about possible legal careers. As a teacher coach of the Belle Vernon High School Mock Trial team, Jim has also volunteered his time and expertise to high school students who act as lawyers and witnesses before real-life judges and “juries” as they compete against other county high schools.

Jim works part-time as a law clerk for Common Court Pleas Judge John E. Blahovec. A graduate of Belle Vernon High School, the University of Pittsburgh, and West Virginia University College of Law, Jim and his wife, Dawn, live in Belle Vernon.



▲ Tim Geary (left) presents Jim Wells with the Young Lawyer of the Year award.

Members Recognized at Annual Meeting

- David W. Cook and John Noel received Honorary Memberships in the Westmoreland Bar Association.
- James E. Whelton, Jr., was recognized for his years of service as Editor of the Westmoreland Law Journal. Tim Martin has taken over as Editor of the publication.

LAWYERS NEEDED FOR REFERRAL SERVICE

The Lawyer Referral Service is in need of lawyers practicing in the following categories, particularly those lawyers in or near the New Kensington and Monessen areas. If you would like to be added to the LRS, please contact the Bar office at (724) 834-6730.

- **Administrative Law**
 - Veterans Administration
- **Bankruptcy/Consumer Issues**
 - Fair Debt Collection
 - Landlord/Tenant
- **Real Property Law**
 - General Real Estate Matters
- **Trials—Civil Litigation**
 - District Justice Practice
 - Privacy/Defamation
- **Other Areas of Practice**
 - Mental Health

Neat, huh, Jim? I got it at a flea market.



Yeah, Harry, I know you got screwed, but it has to go to the Superior Courts.



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Once again the BarFlies gear up to let you down. Presenting ...

Phantom of the Courthouse

If you can sing, dance, sing and dance, or even breathe while you move your extremities, or if you have any pretensions of doing the same, and if you desire to flaunt your talents in front of an audience who won't most likely care, please contact John Noble at (724) 853-2296.

Inn to Change Name in Honor of Ned Nakles, Sr.

On the evening of Friday, May 19, 2000, the Westmoreland American Inn of Court will host a dinner at Seton Hill College to commemorate the change of the Inn's name to the Ned J. Nakles American Inn of Court.

All members of the bar and bench are cordially invited to attend. For further information, please call Bob Johnston at (724) 834-0300 or Pat Costello at (724) 834-2100.

TOP TEN REASONS TO ATTEND THE RENAMING OF THE INN OF COURT

1. NED
2. NED
3. NED
4. NED
5. NED
6. NED
7. NED
8. NED
9. NED
10. NED

From the Bench

RIPS/ATS Creative Solution to County's Problems

by The Honorable Debra A. Pezze



At a recent function at the University of Pittsburgh at Greensburg, I had the pleasure of sitting next to the editor of this fine publication. A few weeks later I received from him a gentle reminder that I had somehow volunteered an article for the next issue. I don't remember volunteering for anything, but I suppose I should be grateful that I haven't received a gentle reminder that I owe a large sum of money.

As one of four judges who serve on temporary assignment to hear criminal cases in our court, I decided I would write of some of our many attempts to address the increasingly complex legal and social problems we encounter daily. Along with Judge Blahovec, Judge McCormick and Judge

Ober, I struggle every day to try and solve problems that have no easy answers.

An area that consumes an enormous portion of our resources is substance abuse. Obviously substance abuse, by definition, is a legal problem. It is, however, a problem that has many dimensions. It is a physical problem, an emotional problem, a psychological problem, a spiritual problem, perhaps even a philosophical problem. If it has an easy solution it has evaded me.

Our efforts have been somewhat limited by the legislature's implementation of lengthy mandatory prison sentences for drug offenders. Unfortunately, these directives do not appear to have significantly diminished the use and sale of

controlled substances nor the crimes and problems attendant to them. Non-violent drug offenders are now occupying a disproportionate percentage of our very expensive and valuable prison space. Obviously, we need to incarcerate those who endanger the community, but the cost of incarceration has soared dramatically over the last decade.

Strictly punitive approaches to deep social problems can't be successful and the use of intermediate sanctions can create rehabilitative opportunities for offenders to repay their victims and their communities. In short, we've experienced a need to look for more creative solutions to our problem.

While we have had a very successful intermediate punishment program in place for nearly eight years now, more recently we have undertaken our most ambitious rehabilitation project to date. We call this program Restrictive Intermediate Punishment with Alternative Treatment Services, or RIP/ATS for short. RIP/ATS is administered, managed and directed by our Office of Adult Probation and Parole, more specifically, Eric Alwine of that office is its coordinator and he is assisted by Dave Daniels. Comprehensive Substance Abuse Services and its director, Tim Merlin, provide all the substance abuse treatment services.

The program was initiated in September 1998 by way of a \$10 million grant from the Commonwealth of Pennsylvania, to be allocated among 12 counties, including

continued on page 17

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Greensburg-Salem Captures Mock Trials Title, Trophy

Greensburg-Salem again captured the title and trophy at this year's Mock Trial Competition which was held February 15–29. Overall competition this year was keen, with the most school participation in recent history. Teams competed from Mt. Pleasant, Southmoreland, Belle Vernon, Kiski, Greensburg-Salem, Valley, Greensburg Central Catholic, Burrell, Franklin-Regional, and Hempfield.

The final trial was a well-matched contest, pitting G-S against Kiski Area with the Honorable Debra Pezze presiding. With the county title to bolster them, the G-S team, coached by Judge McCormick, Jr., and G-S teacher Judy Washburn, headed to the regional competition in Ebensburg in mid-March where they carried away the prestigious regional title. This took them to the state competition in Carlisle on April 7–8 where they battled Quigley Catholic from Beaver County in the first round. Here they were defeated with Quigley continuing on and winning—for the fifth year—the state title.

According to Judge McCormick, the G-S team enjoyed its first trip to the state championships and will be ready for that level of competition next year. “This has been a very worthwhile experience for the students and myself,” he commented. “The assistance

and participation of our Bar Association is unrivaled throughout the Commonwealth.”

Anyone involved with the mock trials is reminded that our schools are filled with talented, hard-working, ambitious and articulate students. “The high school students who participate have a great experience and take home a unique perspective of the courtroom and the legal profession,” says Chris Haidze, Chair of the Mock Trial program.

Michelle Ivill, a fourth-year participant from Belle Vernon High School, cited her participation in the mock trials as one of the most rewarding activities in

which she ever participated. “The organization, communication and teamwork skills this competition forced me to develop are irreplaceable. The memories and skills I have taken

from it will be carried with me for a long time.”

Bar member Charley Conway has coached the Franklin-Regional team since its inception 12 years ago and has worked with over 100 students

throughout that time. “These are bright kids who relish the interscholastic competition in our impressive courtrooms,” said Charley. “They, like veteran trial lawyers, are apprehensive before, but once the battle of wits join, rely on their preparation and poise to impress the jury. I have had several students who continue with their legal education and even now am dealing with one as a worthy adversary.”

Kudos go to Chris Haidze for his many hours of commitment and his last-minute successful efforts to round up jurors and, often times, judges. Thanks, too, goes to the bar members who put in many afternoons, evenings and Saturdays to coach the students in the nuances that make for a poised attorney, believable witness and, hopefully, winning case.

continued on page 10



CHRIS HAIDZE (FAR LEFT), JUDGE MCCORMICK (FIFTH FROM RIGHT) AND THE GREENSBURG-SALEM TEAM CELEBRATE ITS WIN.

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To-Wit: Hard Drive, Part II

by S. Sponte, Esq.

As if it weren't bad enough that my brain capacity had become saturated with far too much accumulated information, I soon came to realize that most of it was useless at that. I mean, who really needs to know the name of the tipstaff in orphans' court or the name of the recorder of deeds or the names of all the judges on the Superior Court, for heaven's sake.

Oh, I still had plenty of room for the client of 12 years ago whose business I could not save. I still had plenty of room for the client of seven years ago whose house I could not save. And I still had plenty of room for countless other clients with countless other causes whose lives I could not better, whose dismal slide along life's razor blade was slowed nary a skootch by my efforts. Those pains, those failures, oh, I remembered them all right. But just once I try to recall from my youth that gorgeous blonde with salacious energy sufficient to light Seattle for a month and no more room at the inn. That cinched it.

The next morning found me in the waiting room of Dr. Wilhelm DeFrag. He had been recommended to me by Howard (or was it Fred?), my personal physician, as a therapist trained to deal with such matters.

I was so grateful that, after hearing my tale of woe, he did not suggest the acquisition of an inflatable companion. Instead, he spoke to me in reassuring terms.

"I have treated many patients with the same problem," he said. He wrote on a slip of paper and handed it to me. "Meet me at this

address tonight at midnight," he said, "and we shall begin." He added as I headed for the door, "Prepare yourself. It's not going to be pretty."

Midnight found me at the address. I was mildly surprised to be standing in the alley behind the courthouse, but inasmuch as Dr. DeFrag showed up promptly at the appointed hour, I did not have much time to ponder the matter.

"Follow me," the good doctor said, and he opened an unlocked rear door to the courthouse and entered.

For most lawyers, success is hard to conceptualize. Because everything you do is so adversarial, even the victories can often feel like defeats.

"How did you arrange that," I asked.

"You mean the unlocked door? There's nothing to arrange. They're never locked from the inside, only the outside. The only security problem courthouses really have is from people trying to escape."

In a matter of minutes, we found ourselves standing outside Courtroom No. 1. "Does this look familiar to you?" he asked.

Before I could respond, he grabbed me by the scruff of the neck and dragged me inside.

He switched on the lights, placed the palms of his hands on

the cheeks of my face and directed my head, much against my will, toward the bench. "What do you see there?" he screamed.

"Look, look, what do you see?"

"It's 1971," I said. "My first big jury trial. Arghh, it's awful. My client was the defendant; it was a foreclosure of a purchase money mortgage; there was clearly fraud by plaintiffs in the inducement; there were four days of trial."

"And ...?" the doctor demanded.

"I can't, I can't, it's too painful."

"You must," he replied.

"Criminy, the judge directed a verdict against my client even though the jury found he had been defrauded in the purchase. The judge said even if you get cheated, you still gotta pay the mortgage. No supporting law, just his personal philosophy. My client won on appeal, but the costs of litigation pretty much wiped him out."

In the next instant, we were in Courtroom No. 2. Forced to stare at the bench again, I remembered another old case, from 1979. I hadn't thought of it in years.

"Tell it," Dr. DeFrag screamed in my ear. "Tell it."

"It was a contract case; my client should have won it easily. We lost because I was going through a divorce myself and couldn't concentrate. I felt horrible."

"How horrible?" the doctor asked.

"Not horrible enough to fess up," I said. "I told the client that he had done a bad job of testifying and the jury didn't like him."



continued on page 10

To-Wit *continued from page 9*

“Was that the truth?”

“No.”

Then it was Courtroom No. 3, then No. 4, then No. 5. It went on like that all night. In each courtroom, I relived failures, some of which I thought I had forgotten years before. It was astonishing to me how powerful some of those memories were.

After what seemed like an eternity, we were both standing in the alley again. It was dark and cold and I felt like hell.

“This is your therapy?” I belated. “This is what you do to your patients? It’s bad enough I had to suffer through these humiliations the first time. God knows, I didn’t want to relive them.”

“You’ll feel better in the morning,” he said. “Give me a call when you do.”

Well, the next morning I felt great. “That’s some technique you got there,” I told Dr. DeFrag on the phone.

“For most lawyers,” he said in response, “success is hard to conceptualize. Because everything you do is so adversarial, even the victories can often feel like defeats. Soon, everything feels like a defeat, and after many years, all these defeats take up valuable memory space. The secret is to face your failures, perceived or otherwise, bring them to the forefront of your consciousness, realize they aren’t that bad and then let them go.”

Well, it all sounds like a lot of psychobabble, I know, but I sure feel better, and my memory is significantly improved to boot.

Last week I ran into the good doctor at a cocktail party. “I was wondering,” I said, “how would you treat a lawyer who doesn’t feel like a failure?”

For a second, he looked at me as if hit right between the eyes with a baseball bat. Then he started to snicker. The snicker soon became a chortle, then a guffaw and then a convulsive stream of belly laughs. Within minutes he was rolling on the floor, paralyzed with laughter, and that’s where I left him. Some questions, I guess, should never be asked.

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Mock Trials

continued from page 8

These attorney coaches include: Tim Geary, Corey Green, Chris Nakles, David Petonic, David Colecchia, Charley Conway, Judge Richard McCormick, Cheryl Yakopec, Steve Yakopec and Tom Bailey, the teacher coach from Hempfield who previously practiced law in Harrisburg.

A final thanks goes to the bar members and friends who served as jurors and judges. Gary Falatovich, Chair of the Westmoreland Bar Foundation, coordinates the jurors for the final competition, “This is an enjoyable event for our members as well as the students. It’s amazing how many attorneys volunteer their time. If you do it once, you’re hooked.”

It is not too early to commit to next year’s program. Attorney coaches are always needed as are volunteers to serve as jurors and to give Chris a much-needed hand with timing and scheduling the overall competition. If you are interested in volunteering, contact Chris Haidze or the Bar office.

Spotlight on B. Patrick Costello

Q WHAT JOBS HAVE YOU HELD PRIOR TO BECOMING A LAWYER?

A Coal miner and Naval aviator.

Q WHICH WAS YOUR FAVORITE AND WHY?

A Both, because my experiences as a coal miner helped me to become a better Naval aviator, but if I had to choose, it would be the latter.

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

A Years ago, I filed a writ of execution, and Sheriff Alex Copeland levied on the assets of an itinerant traveling circus—which included three elephants. The Sheriff informed me that he was “not in the business of feeding elephants,” and advised me that I would have to be *personally* responsible, so I fed the elephants for three days out on land where Westmoreland Mall is now located.

While I was doing this, I kept thinking (and others kept asking), “Is that what you learned in law school?”!

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

A Honest with himself or herself, and with others, and also possessing the quality of being able to congratulate the other attorney when you lose a case.

Q WHAT IS YOUR FAVORITE JOURNEY?

A My all too infrequent trips to Ireland.

Q WHAT IS YOUR GREATEST REGRET?

A Giving up my Thunderbird convertible and my airplane just before I got married.

Q WHO ARE YOUR HEROES IN REAL LIFE?

A Fleet Admiral William “Bull” Halsey, USN, and General of the Armies Douglas MacArthur. Also, Mr. Justice Oliver Wendell Holmes.

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

A Try to follow the “Golden Rule,” i.e., don’t be an S.O.B. to either your client or the other attorney.

Q WHAT DO YOU CONSIDER YOUR GREATEST ACHIEVEMENT?

A Finding the woman who caused me to give up the Thunderbird convertible and the airplane—in exchange for her and four wonderful children.

Q WHAT IS YOUR IDEA OF PERFECT HAPPINESS?

A Spending more time with my family.



Q WHAT IS YOUR MOST TREASURED POSSESSION?

A My wife, our four children, and two grandchildren.

Q WHAT IS IT THAT YOU MOST DISLIKE?

A Attorneys who do not follow the “Golden Rule” set forth above. They make the practice more difficult than it should be.

Q WHAT IS YOUR GREATEST EXTRAVAGANCE?

A Good food and fine wine.

Q WHAT TALENT WOULD YOU MOST LIKE TO HAVE?

A To be more computer literate in this computer age.

Q WHAT DO YOU MOST VALUE IN YOUR FRIENDS?

A Knowing that they are always there to help when you need it.

Q WHICH LIVING PERSON DO YOU MOST ADMIRE?

A His Holiness Pope John Paul II.

Q WHAT IS YOUR MOTTO?

A Don’t be an S.O.B.!



Actions of the Board

MINUTES: FEBRUARY 15, 2000

- Approved recommendations of the Membership Committee: David Miller, Associate; Derek Ferace, Associate; M. Farley Schlass, Associate; Michael Pacek, Associate; Rachel Yantos, Participating; Robin Sue Holmes, Participating.
- Agreed to appoint Bob Johnston to fill three-year term on House of Delegates and Dan Joseph for Zone 6 PBA Governor.
- Agreed to acknowledge the Fee Dispute Committee for their efforts and to present them with the Committee of the Year award.
- Tabled the Sale of Small Firm Rule 1.1.7 issue, until after the CCBL where this issue will be on the agenda.
- Supported the efforts of the PBA to preclude the practice of law by nonlawyers especially in assessment appeals cases.
- Adopted a policy that the board is not in the position to endorse malpractice liability carriers.
- Hired Jackie Knupp as CLE coordinator beginning April 3, 2000.
- Agreed to purchase an 800 number, preferably "800-west-bar," and to advertise in *the sidebar* and, with WLJ editor's approval, in the law journal.

MINUTES: MARCH 21, 2000

- Accepted the recommendation of the Membership Committee: Christopher Hasson, Associate.
- Approved the placement of excess LJ funds in a Sweep account as soon as possible.
- Agreed to leave the policy regarding the handling of "attorney concern" phone calls as set at the January board meeting and extend an invitation to the

- Chief Director of the Disciplinary Board, John Doherty, to attend a Quarterly Meeting and address this issue with the membership.
- Approved the purchase of a front projection large screen TV to be installed in the seminar room. This was seconded by Mr. Kress and the motion carried 3-1, Campfield abstaining.
- Decision to determine costs and usage of a teleconferencing center by first checking with Seton Hill and the Donahue Center on these issues.
- Agreed to consider hosting the Commonwealth Court when a three-member panel convenes in the county in June.
- Agreed to recommend Honorary Membership for David Cook and John Noel to the membership at the Annual Meeting. This would waive payment of dues.
- Agreed to purchase gift certificate as recognition for and appreciation of a job well done by outgoing WLJ editor Jim Whelton and to present this to him at the Annual Meeting.

- Agreed to advertise PBA position for leadership institute in WLJ and to require a completed application. Requires previous leadership involvement, 35 years of age or less, and 10 years of practice or less.
- Approved committee recommendation for Professionalism Award to go to Richard Galloway.
- Approved YL nomination for Jim Wells as Young Lawyer of the Year.
- Revisited rule 1.17 concerning the sale of a solo/small firm. Adopted resolution to support rule 1.17 and to forward resolution to Keith McLennan from PBA committee for dissemination.
- Agreed that Life member list not be published due to inaccurate data on Supreme Court admission dates available.
- Toasted Past-President Joseph, who attended his last board meeting, and Mr. Flickinger, who presided over his last board meeting as President. Thanked each of them for the time and guidance they provided to the membership of the bar.

On The Move ...

HARRY SMAIL, JR., has moved to Keystone Commons II, 35 West Pittsburgh Street, Greensburg.

Member Happenings

BOB SPECHT and **RACHEL MOROCCO** announce the birth of their second child, William James Specht, born February 23, 2000. He joins a big brother, Bobby, at home.

JEFF and **LISA GALLOWAY MONZO** proudly announce the birth of their daughter, Margaret "Meghan" Taylor, born April 16, 2000.

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JUNE 15-17
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Celebrating St. Paddy's Day



So, how 'bout it, Snookums, wanna see my briefs?



Jim, you gotta cut out this "reversing" crap.

After a couple drinks, Judge Marsili is persuaded that such a kick is only part of the ancient "New Judge" initiation ritual.



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Judge David H. Weiss Scholarship To Be Awarded

Over the past 17 years, the Judge David H. Weiss Memorial Scholarship has been awarded to upper-level University of Pittsburgh law students who are residents of Westmoreland County and have demonstrated academic achievement and financial need. This year, the Scholarship Committee of the WBF is prepared to offer a \$1,000 scholarship for Pitt Law School's Fall 2000 semester.

Candidates must apply through the Financial Aid office of Pitt Law School. All applications must be forwarded to the Scholarship Committee by June 1, 2000. If you know a qualified candidate, please encourage them to apply.

Donald Laird Hankey Memorial Scholarship Established

The Westmoreland Bar Foundation announces the establishment of the Donald Laird Hankey Memorial Scholarship which is to be awarded annually to any resident of Westmoreland County who is

attending law school. Based on financial need and academic performance, the Hankey Scholarship will be awarded for the 2000–2001 school year in an amount up to \$5,000.

Donald Laird Hankey, a sole practitioner in New Kensington, was a member of the Westmoreland Bar Association for more than 65 years. A lifelong resident of Westmoreland County, he was an alumnus of Westminster College and the University of Pittsburgh School of Law.

Any resident of the county who is currently attending law school or who will be attending in the fall is welcome to submit an application. Applications can be acquired by contacting the financial aid office of Pennsylvania law schools or by calling the office of the Westmoreland Bar Association at (724) 834-6730. The deadline for submission is on or before June 1, 2000.



Book Drive A Success

The Westmoreland Bar Foundation hosted a luncheon Friday, March 3, 2000, to kick off a Book Drive that benefits the Westmoreland County Head Start Program, a federally funded children and family development program which presently serves 600 income-eligible families.

Admission to the luncheon was gently used children's books, or a comparable donation. The book drive coincided with the National Education Association's Read Across America Day that commemorates Dr. Seuss' birthday and shows children that reading is important ... and fun.

Shown above are, from left to right, Carrie Hayes, mother of a four-year-old Head Start student; Cindi Phillips, Family Education Specialist of Westmoreland Head Start; Rebecca Brammell, Chair of the WBF Outreach Committee; and committee member Jackie Knupp.



Luncheon Benefits YWCA's Working Women's Closet



Nearly 30 people attended the Westmoreland Bar Foundation's first annual Secretary's Appreciation Luncheon April 14 at Bar Headquarters. The price of admission was one (or more) gently used suit or business outfit to benefit the YWCA's Working Women's Closet, a charity that provides appropriate interview clothing to women who are changing careers or are actively trying to enter or reenter the job market after graduating from school or participating in job training or welfare programs.

The guest speaker for the luncheon was Lisa Hainaut from the Lynch Field Aerobic Center (third from left above), who provided lighthearted, yet practical, ways to handle stress on the job.

"... and a red Ferrari ..."

continued from page 3

them and their constituents. The *Tribune-Review* was pleased with our assistance and the ensuing results in the judicial candidates survey. The League of Women Voters and several other cooperating organizations relied on us for support of their Judicial Candidates' night. High school students participating in the Westmoreland Bar Foundation sponsored Mock Trials have gained new appreciation for their lawyer coaches and the legal system.

When I first assumed office, Dick Galloway told me to enjoy my year. I have, beyond measure. It has taken much time, but the emoluments of the office have far outweighed the burden. When I say it has been the highlight of my professional career, I mean it. Thank you all for making it possible.

Looking for a special way to remember someone?

**Births • Deaths • Marriages • Anniversaries
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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 **Special Way to Remember** program, you can honor a colleague or loved one with a contribution to the Foundation. Your gift will help serve the needs of our own who have nowhere else to turn for legal services.

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



▲ Rich Flickinger poses with his parting gifts, an emergency auto kit complete with pith helmet and fluorescent vest over a new Dan-Joseph-style polyester shirt.

New Member Sketches

Jeffrey D. Abramowitz is an associate with Echard & Snyder. A participating member since February 1999, he is a graduate of Mount Pleasant High School, West Virginia University and the West Virginia College of Law. Jeffrey lives in Mount Pleasant.

Robert V. Bickers, Jr., husband of WBA member Diane Landis Bickers, has been a participating member since June 1999. He and Diane are partners in Bickers & Bickers in Murrysville. A graduate of Frayser, Memphis State University and Memphis State University School of Law, all in Tennessee, Robert lives in Murrysville and has four children, Beth, Bradley, Alyssa and Jessica.

Mark J. Bushnell became a participating member of the WBA in December 1999. He attended Cass Technical High School, the University of Detroit and the University of Pittsburgh School of Law. He and his wife, Marsha, make their home in Monroeville with their son, Michael.

Leo J. Ciaramitaro, a participating member since March 1999, works in the District Attorney's office. A graduate of Greensburg Central Catholic, The Catholic University of America and Duquesne University School of Law, Leo lives with his wife, Cynthia, in Delmont.

Robert J. Cromer practices in Trafford and has been a participating member since July 1999. A

graduate of Trafford, the University of Pittsburgh and the University of Pittsburgh School of Law, Robert lives in Trafford with his wife, Judith, and has two children, Rebecca and Michael.

Christy D'Onofrio, a graduate of Norwin, Penn State and the University of Pittsburgh School of Law, was accepted as an associate member in March of 1999. She lives in Greensburg with her husband, Steve, and son, Adam.



Maegan Susa Filo is an associate with J. Raymond Ambrose, Jr., & Associates. A participating member since December 1999, she is a graduate of Highlands, Washington & Jefferson and the University of Pittsburgh School of Law. Maegan lives in Natrona Heights with her husband, Joel, and daughter, Kayla.

David P. Gaudio has been a participating member since February 1999. He is a graduate of Mon

Valley Catholic, the University of Pittsburgh at Greensburg and Duquesne University School of Law. David lives and works in Monessen and has an office in Bridgeville.

Daniel C. Hudock, son of the Honorable Joseph A. Hudock, has been an associate member of the WBA since February 1999. A graduate of Greensburg Central Catholic, William & Mary and the University of Pittsburgh School of Law, Dan works for Reed Smith Shaw & McClay and lives in Pittsburgh.

Charles J. Jacques III, of Jacques & Jacques in Natrona Heights, has been an associate member of the WBA since October 1999. He attended Highlands, Allegheny College and the University of Pittsburgh School of Law and lives in Aspinwall.

Patricia Kurp Masten works in the Child Support Advocate office and has been a participating member since May 1999. A graduate of St. Anselm, Robert Morris College and Duquesne University School of Law, Patricia lives in Export with her husband, Rod, and has two children, Christy and Brianne.

Steven L. Morrison practices in Harrison City and has been a participating member since October 1999. He attended Brookville Area, the University of Pittsburgh and Ohio Northern University School of Law. He and his wife, Adele, live in Jeannette.

RIP/ATS *continued from page 7*

Westmoreland. The object of the grant was to save money by saving bed-days in state institutions. Therefore, the program targets offenders who would otherwise be serving minimum sentences of 12 to 24 months in jail.

The program involves a very intensive regimen of house arrest, drug and alcohol treatment and counseling. A typical participant begins with inpatient treatment for substance abuse which can last from 14 days to six months, depending on the individual's needs.

This is followed by partial hospitalization or day treatment which involves a full day of counseling including group confrontation; Narcotics and Alcoholics Anonymous in-house meetings; vocational training and job search services through the Private Industry Council (PIC) and Westmoreland Human Opportunities (WHO); family counseling and Domestic Abuse Counseling. Transportation and lunch are provided to the participants as necessary.

Intensive outpatient treatment generally follows the partial hospitalization which, in turn, is followed by more traditional outpatient treatment.

As one progresses, any usage of alcohol or a controlled substance or any treatment violation results in an automatic return to the more restrictive aspect of the program. The most serious infractions are brought before the court and can result in removal from the program and the almost certain imposition of a lengthy prison term.

So far, 114 people have participated in the program. Of those, only eight have re-offended, that is, have been again charged with a crime. This is a particularly dra-

matic and impressive figure when compared with the 62% likelihood that a person sentenced to one of our fine state institutions will re-offend within three years.

The overwhelming success of this program, I believe, stems from its willingness to treat criminal substance abuse as the multifaceted problem that it is. It is certainly a giant step in our effort to address the needs of our community.

LAW SPEAK

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

—*Jackson, J., West Virginia State Board of Education v. Barnette*, 319 US 624, 63 S Ct 1178 (1943)

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PRACTICE TIPS

The Expanded Role of ADR in the Workplace

by Timothy G. Hewitt, Esq.

Alternative dispute resolution is not new to the workplace. The Federal Mediation and Conciliation Service and the Pennsylvania Department of Labor and Industry have provided mediation services at no cost to private and public sector employers and unions for years. Principally, this involved process-oriented mediation. This approach assumes that with the existence of a mediator, the parties will arrive at a solution that is mutually satisfactory or unsatisfactory. The mediator generally helps clarify, organize, and perhaps educate the parties as to what industry norms may be. Through encouragement the parties expand their discussions taking into consideration the mediator's nudges, and are generally able to move beyond their intransigence.

In 22 years of negotiating collective bargaining agreements, I have utilized mediators in hundreds of instances. For the most part, mediation is effective even though it is voluntary and the mediator does not have resolution authority. However, process style mediation can also be ineffective. While most mediators take the process-oriented approach, I have found more effective mediators use a combination of process and substance-oriented approaches.

In substance-oriented mediation, the mediator evaluates the case based upon his or her experience and offers substantive recommendations on how the case

should be resolved. This approach is particularly effective in grievance mediation. However, it can also be very effective in individual rights and collective bargaining mediation. Primarily, it permits a neutral party to make a recommendation that a judge would probably order but which, if made by either party, may not be considered.

Employment provides a target-rich environment for mediation. In addition to an effective method for resolving grievances arising under collective bargaining agreements, mediation and arbitration provide an expedient alternative to litigation for the explosion of employment-related claims being litigated in state and federal courts arising from various workplace statutes. Claims routinely arise under Title VII of the Civil Rights Act of 1964, as well as under ERISA, Americans with Disabilities Act, Equal Pay Act, Family and Medical Leave Act, Pregnancy Discrimination Act, Section 1981 of the Civil Rights Act of 1991, and the Whistleblower Act.

Further, most employment contracts with upper level managers provide for mandatory arbitration of disputes arising under those agreements. While both mediation and arbitration provide resolution forums which shortcut litigation and are more cost effective, a fundamental distinction exists between them. The proper selection may make the difference between a successful resolution and a further division of the parties. There is no guarantee that ADR will be successful. In submitting a

case for ADR, the representatives should take into consideration the merits of the case, the likelihood of resolution through ADR, the availability and cost of available mediators/arbitrators, whether the parties are required to utilize ADR, or have a history of successful ADRs, whether ADR techniques should be employed while a case is proceeding on a litigation course, or whether the parties want to accept ADR as final and binding.

Through encouragement, the parties expand their discussions and are generally able to move beyond their intransigence.

During recent times, many employers in non-union settings have adopted internal grievance procedures for employees to resolve employment-related claims. While traditionally labor arbitration has had a long history of usage in connection with grievance procedures contained in collective bargaining agreements, arbitration now is being expanded to individual employees outside of a collective bargaining setting. It is even being utilized to resolve the statutory claims of employees. Individual employees can waive their rights to judicial forums and select arbitra-

tion to resolve statutory claims. Employees covered by collective bargaining agreements may not be able to do so without circumventing the right of their union representative to serve as exclusive representative for employees in the appropriate bargaining unit. The right of individual employees to waive their collective bargaining agreements in exchange for a private agreement to arbitrate has not yet been decided. If, however, the issues are outside of the scope of the collective bargaining agreement, independent ADR would be appropriate for the parties' consideration.

Grievance mediation is becoming more popular as a step prior to mandatory arbitration in collective bargaining agreements. Frequently an outside mediator can assist the parties in resolving multiple grievances with the parties being charged on a per diem basis. It is not unusual to hire a mediator for two or three days to reduce a backlog of grievances.

Unfortunately, most parties do not know enough about mediation/arbitration to make good decisions about its application. Due to lack of knowledge or understanding, many attorneys believe they can settle cases without mediation. Sometimes this is true, but usually before considering ADR the parties have been unable to resolve the matter on their own. They need to understand that a trained mediator may be in a position to not only evaluate the case, but also to facilitate a resolution. The approach of the mediator is critical in the context of exposing strengths and weaknesses to the parties and offering alternative solutions. The process of mediation may take time with

the mediator slowly walking the parties towards an ultimate resolution by getting agreements on smaller issues or working out details which the parties can accept ripening the way to an overall resolution.

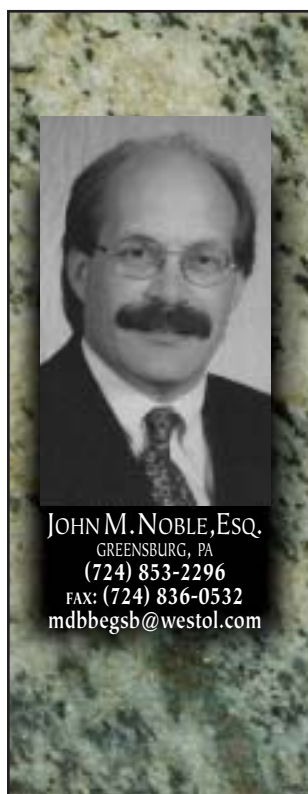
Even when mediation does not completely resolve the underlying dispute, it is an effective discovery tool and can result in reducing issues. Occasionally when the parties are comfortable with the mediator's approach and understanding of their positions, they will authorize the mediator to serve as arbitrator with binding authority to decide the matter.

The parties can set the mediator's authority and decide whether the mediator will become an arbitrator if mediation is not successful. In cases involving money damages, the parties can agree to high/low limits on an arbitrator's authority much like those available

in mini trials in Westmoreland County.

Costs of private ADR vary. Generally ADR mediation in the workplace involving statutory claims is on an ad hoc basis with the parties either splitting the costs by agreement or the employer paying the cost of mediation. Frequently the employer's employment manual will provide that outside mediation or mandatory arbitration will be at the expense of the employer. In exchange, the employee gives up their right to statutory remedies.

In conclusion, a party would be remiss in not considering utilization of ADR in employment-related claims, however, the degree of success in ADR will be dependent upon the willingness of the parties to engage in the process and the effectiveness and experience of the mediator/arbitrator. ADR is here to stay, use it.



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CALENDAR of Events

MAY

- 10** Membership—Noon
- 10** Chamber BASH—5 p.m.
- 11** *LIVE CLE Seminar: Family Law Update*, 3 substantive credits—8:45 a.m. to Noon
- 15** Info Tech—Noon
- 16** Family Law—Noon
- 16** Board Meeting—4 p.m.
- 17** Young Lawyers—Noon
- 19** Inns at Seton Hill
- 29** Memorial Day

JUNE

- 7** Membership—Noon
- 14** Young Lawyers—Noon
- 15-17** Bench/Bar Conference at The Wisp
- 20** Family Law—Noon
- 20** Board Meeting—4 p.m.

TOP TEN

Top Ten Things Lawyers Never Say

1. Quadriplegic, huh? I'm so sorry.
2. Forty percent does seem high, doesn't it?
3. Your kids have suffered enough in this divorce, let's not arrest their Dad.
4. Boy, you really kicked my ass in this case. Nice job.
5. Not only do I disagree with Your Honor's ruling, I think you're an idiot.
6. Yes, I see they're quite large, but how fast can you type?
7. Ladies and Gentlemen of the Jury, I think I'm wrong.
8. I really like a client who's in it for the principle.
9. I never in a million years thought we'd get that much.
10. Well, I don't like him, but he's a pretty good lawyer.



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