



# Pro Bono Custody Program Brings New Family Together

by Becky Fenoglietto, Esq.

Heroes walk among us. We know that more than ever these days. Sometimes they save lives. Sometimes they give up their lives to stop greater tragedy. Sometimes they are just there to help two lost boys stepping off of a Greyhound bus.



▲ Becky Fenoglietto

That's how one of my first cases as an attorney for the Westmoreland Bar Foundation's Pro Bono Custody Program began. Since June, I've been one of three attorneys who meet with clients, draft petitions, represent defendants and handle all other aspects of custody cases on behalf of many good, honest people caught in untenable situations, many times beyond their control. I took the job thinking it would be easy enough, and that I could find a way to "give back" (a cliché, I know, but it's true nonetheless). It's an important program, but until Brenda and the boys came along, I never knew how vital this program could be.

How did these people get to me?

Get out your flow charts. This gets messy.

A call came to the Pro Bono office at the end of the summer. It was Brenda, who would soon become my client. Earlier that summer she had taken in two boys—her ex-husband's stepsons. Their mother had been married to Brenda's ex-husband, Fred. Even though Fred and the boys' mother had moved around a lot, the boys developed a relationship with Brenda and her daughter and they remained close throughout the years.

After the boys' mother died, Fred tried to adopt his two stepsons. The boys' natural father, Frank, was living in some remote part of Armstrong County, had a drinking problem and showed up drunk at the custody proceeding. Given the two choices, the boys, Matt and Mark, went to live with Fred.

One year later, Fred moved the boys to Pittsburgh. He was an open cross dresser and pressured the youngest boy to "dress up" with

him. He had become violent, and it was later learned that he had PFAs against him in another county for abusing Brenda and the daughter they had together.

Mark went to live with Brenda and her new husband and family. Matt soon followed.

They returned briefly to live with Fred, who promptly tried to sell them to a childless couple. Brenda said it was more like a trade—an exchange of the boys for an apartment with a



Jacuzzi. Frightened and hurt, the boys boarded a bus and went back to Brenda.

All would have ended well there, but the boys needed to be in school, and Brenda needed a court order to get them there. But Fred still wanted the boys, or at least the Social Security money that came

with them. At first, Allegheny County CYF was involved, primarily because of the "selling"

*continued on page 6*

President's Message

# Unfurled Glory

by John M. Campfield

Sadly, we all know that the terrorist attacks of September 11, 2001, have become our new day of "infamy"; a day that changed the world. These terrorist attacks were more than an attack on people, places and institutions. They were more than an attack on how we act in a global setting. They were



acts in a series, and, what I'm certain the terrorists hope will be a continuum, of attacks on who we are as a people, a nation, a civilization.

As an open and free society we invite and foster diversity.

We are a caring and compassionate nation that runs to the help of nearly everyone. We are a great democracy, a nation of laws—not rulers. We are a model, an inspiration and a hoped-for destination for many people of the world. And we now find ourselves in one of the great defining moments in our history.

The terrorists' acts have spawned a spontaneous, united and overwhelming display of patriotic activities. "Old Glory" is now unfurled across the land—on our buildings, in our yards, on our vehicles, on our clothing, and I am certain, in our hearts and minds.

Terrorists rely on the fear they hope to create to bring forth societal regression, repression and paralysis. They seek the measure of fear that will spawn negative human characteristics and societal chaos.

We have rallied greatly from those tragic and sudden moments of chaos on September 11, but we continue to face new threats, new terror. Our

sorrow, sadness and grief are mixed with measures of fear, anger and hatred.

Our leaders have called for new paradigms; new ways to combat a new enemy, using new techniques; and new measures to judge liberties and freedoms. We have undertaken a military campaign entitled "Enduring Freedom." We must also guard that our freedoms are truly enduring.

But any destructive feelings lurking in the "new" must give way to our positive human qualities and our values of caring, compassion, love and justice. We must be wiser and stronger than ever before and not crawl to the level of the terrorist.

If we are a humanity with great character and if we are a civilization with great values, and I believe we are, then we must rely on that character and those values to see us through and beyond these acts and these times. The tragedies of September 11 have spawned heroic

efforts, examples of our character and values. While all measures from this time forward need not be heroic, they must be reflective of who we are and what we stand for. And while my full measure of trust is in the America I know and love, I realize that we, as lawyers, must be vigilant of the principles of law that make us great. The terrors and tragedies must not beget more tragedies.

Together, we will take full measure of our enemies, while being true to those principles symbolized by "Old Glory." I look forward to the day when "Old Glory" can furl peacefully, on a pleasant day, on a wonderful nation, on a beautiful people.

## How to Help

As the recovery and relief efforts continue, new needs and support for victims and their families will emerge. These charities have established funds that will go directly to supporting the emotional, physical, and financial needs of the victims as well as continuing recovery efforts.

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Disaster Relief Fund**

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disaster relief

**September 11th Fund  
United Way of New York City**

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September 11th Fund

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the families of the fallen fire  
fighters and EMS personnel in  
New York City.

# WBA Thanks Past and Present County Commissioners

by Aaron M. Kress, Esq.

On June 24, 1994, Westmoreland County filed a Complaint in Equity to enjoin a business from engaging in the Unauthorized Practice of Law by representing, as a layman, property owners in assessment appeals before the Board of Assessment Appeals. On February 26, 1996, the late Bernard F. Scherer, President Judge, granted the county's Motion For Summary Judgment and entered the injunction. The Monessen School District, the City of Monessen, Allegheny Township and the Kiski Area School District intervened as additional Plaintiffs.

The county also instituted a similar action against the RTA Group, who were engaging in similar conduct. As part of its strategy, RTA filed a counter-suit seeking damages from the county, the Westmoreland Bar Association and me, since I was representing the county at that time. The strategy ultimately exploded in their corporate face.

The county commissioners and I decided that, in order to defend the counter-suit, we needed able counsel. I told the commissioners that if I were ever in a position where I needed legal representation, I would pick up the phone and call my good friend, Rob Byer to "save my bacon." The commissioners said that if Rob Byer was good enough for me, then he was good enough for them as well. As a result of RTA's counter-suit, which RTA ultimately dropped, Rob and his associate, William Labovitz, both from the

firm of Kirkpatrick Lockhart, stepped into the breach and successfully prosecuted the Rodgers case on appeal through Commonwealth Court and the RTA case through another favorable Summary Judgment, courtesy of Judge Daniel J. Ackerman, and appeal through Commonwealth Court.

Throughout these proceedings, all of the county commissioners—past and present—have supported these cases and the legal profession by

**It would be impossible to overestimate the importance of these cases as they affect the legal profession.**

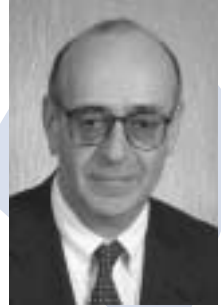
paying for Rob's and Bill's services. Although Kirkpatrick Lockhart gave the county a generous discounted hourly rate, without the financial support of the commissioners, these two important cases might never have been successfully concluded.

It would be impossible to overestimate the importance of these cases as they affect the legal profession. The Pennsylvania Bar Association became involved in each case by filing amicus briefs and participating in the oral arguments. Other Pennsylvania counties took the results of these cases and successfully enjoined similar activities in their counties. As a result of what the

Westmoreland County Commissioners did, the county is now recognized statewide, in a positive manner, for the results achieved in these two cases.

I have no idea how much the county commissioners paid for all of this legal representation—and I'm afraid to ask—but it had to be considerable. For their continuing support and participation in these cases, we, as lawyers, owe the commissioners a debt of gratitude and our heartfelt thanks.

We also owe Rob Byer and Bill Labovitz our heartfelt and sincere thanks for their talents and efforts in both of these cases. I know how we Westmoreland County lawyers feel about those hot-shot Pittsburgh lawyers, but I think we have to make an exception here. Rob and Bill did a great job in getting these two cases successfully resolved.



▲ Aaron M. Kress

**CORRECTION**  
*Beginning in 2002, PBA members and participating members of the WBA will have free access to Pennsylvania Supreme Court content from 1791, not 1971 as reported in the July–August 2001 issue of the sidebar. We apologize for the error.*

Candid Camera:

# Fall Gathering



▲ "Hey," said Duke, "get a picture of me and these three bald guys!"

▶ "Zip-A-Dee-Doo-Dah, Zip-A-Dee-Ay!"



▲ "John, the shiny-pate-bow-tie look has already been done."

▲ "You know, if I twist this french fry here and break that french fry there, it'll look just like Milt's golf swing ..."

## LAW SPEAK

The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding.

— Associate Justice Louis D. Brandeis, *Olmstead v. United States*, 277 U.S. 438, 479 (1928)

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From the Bench

# How to Settle a Lawsuit

## Or, 11 Steps to Instant Karma Without Having to Boil Water

by *The Honorable Richard E. McCormick, Jr.*

### I. BE PREPARED.

The Boy Scout motto and the lawyers' motto. Obviously if you don't know your case it comes through to both the judge and opposing counsel, and it puts you at a disadvantage in settlement. The fact is, if you are not prepared for trial at settlement, you'll never be properly prepared.

### II. BE HONEST.

With the judge. A judge can't assist you in the conciliation of a case if he or she doesn't know the weaknesses, as well as the strengths, of your case. Don't over inflate the value of the case to the judge. It simply wastes time in the negotiation process.

### III. BE FORTHRIGHT.

With your client. Prepare your client realistically from the outset. If you mislead them as to the strengths and weaknesses of the case, and of its relative value, you will be placed in an untenable position come settlement time.

### IV. BE IN CONTROL.

Certainly you work for the client. But you are also a professional, and they have sought your professional advice and talent. You wouldn't expect to tell your doctor how to perform brain surgery. Don't let your client run you or the case. Establish the proper rules and stick to them always.

### V. BE CONSCIENTIOUS.

Work for it. The settlement conference could, and in most cases should, be the culmination of your case. Don't walk away from a settlement conference without having tried to work out a fair compromise that might settle the case.

### VI. BE IN THE PROPER FRAME OF MIND.

Some litigation becomes extremely contentious, and *continued on page 6*



▲ *The Hon. Richard E. McCormick, Jr.*



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## Pro Bono Custody Program *continued from page 1*

allegations. However, once the boys boarded the bus back to Westmoreland County, the agency was happy to wash its hands of the matter, claiming jurisdiction was now in Westmoreland County.



Don't see any heroes yet? Well, this is the part where we get them. Sometimes everyone gets together; sometimes everything falls into place. Sometimes things don't work the way they should,

but they work nonetheless.

My part was easy. Brenda came to me through the Pro Bono Program at a time when it looked like all other avenues were closed to her. On her behalf, I prepared a Petition To Intervene To Take Emergency Custody. Then I did what comes so naturally to me—I fussed and whined until I got what I wanted (a trait that makes me oh-so-popular with my husband and children).

The caseworker from the Westmoreland County Children's Bureau was a hero. She checked out the home, she met with supervisors and coworkers, she met with Brenda, she met with the boys and she did all of the field research. She backed up Brenda when it looked like Fred was going to stake a claim to the boys and she encouraged Brenda to keep fighting for them. She gave me a desk and a phone to use to make some quick calls. She got the ball rolling and stayed with the case until there was a final order.

The solicitor for the school district was a hero, too. Knowing that two extra students in an over-populated school would be, at the least, an inconvenience, she still agreed to work to find a solution

and get the boys in school until a more formal order came down.

The guardian ad litem was also a hero. She dropped everything on a moment's notice and lent her support in court. She was there for the boys, talked to them, and, most importantly, listened to them.

The judge, too, was a hero. He knew he had the power to cut through a lot of red tape and get these boys into a safe and loving home. He knew that the litigation could have been prolonged, but he didn't permit it. The boys started their new lives in his courtroom that day because he cared to act decisively and in their best interests.

But the biggest hero was Brenda.

Without any obligation, without any duty, she knew she had to take these boys. Doing so meant moving from a smaller apartment to a farm in another town. Doing so meant taking in two troubled boys with a past.

In the end, after the judge had granted her permanent, full custody, I asked her why she upended her life for these children who weren't hers. She explained that she had had a slight stroke recently and couldn't return to work. "Before the boys came, I wondered if I was ever going to be useful, or able to help anyone ever again. These kids need me," she said, "and now I know I can still be of use."

I know the feeling.

## How to Settle a Lawsuit

*continued from page 5*

relationships vis à vis opposing counsel deteriorate. Don't let your adversarial nature overcome your conciliatory nature to the detriment of a potential settlement.

### VII. BE ABLE TO EFFECTUATE A SETTLEMENT.

Bring the money and/or the authority to settle. Too many times, counsel wastes the Court's and opposing counsel's time by announcing that they have no authority to settle. Tell your principal to give you authority and to trust your professional judgment.

### VIII. BE REASONABLE.

As the old Indian prayer states, walk a mile in their moccasins. Don't expect more than you deserve from the other side. Don't haggle over the last few dollars. Saving face is not the point of this process.

### IX. BE TRUSTWORTHY.

Don't go back on previously held positions. The settlement judge has to be able to depend upon your representations in the settlement process.

### X. BE SATISFIED.

If the case is settled. A fair compromise isn't a bad result, but rather the best possible result for all concerned. Don't feel that you've been had or taken advantage of. Work to ensure that you struck the best deal possible, and that's the best that can be expected.

### XI. "BE THE BALL."

Chevy Chase, "Caddy Shack." After you have settled your case (or later today), relax a little and enjoy life on the golf course, tennis courts or wherever. You've earned it. After all, he or she who spends much time in court spends too little time smelling the roses.

# Jury Trial Verdicts

## JULY 2001 TRIAL TERM

Of 76 cases slated for trial during the July 2001 Civil Division trial term, 27 were settled, 29 were continued, two were discontinued, one was moved to arbitration, one was stayed pending the filing of bankruptcy, five verdicts were entered and ten were held over to the next list. The summaries that follow involve motor vehicle accidents and premises liability.

**VIVIAN L. RUFFNER**  
V.

**M.J.T. ENTERPRISES, INC.,  
T/D/B/A BEER ARENA  
NO. 7060 OF 1997**

*Cause of Action: Negligence—  
Premises Liability*

On April 26, 1996, plaintiff was at the Beer Arena store located at the WOW Plaza in Hempfield

Township, Westmoreland County. After purchasing a bag of ice, plaintiff was exiting the Beer Arena when she stepped in a large crevice of broken cement near the base of the exterior steps leading to the store. Plaintiff's injuries included an avulsion type fracture of her left ankle.

Defendant asserted plaintiff's comparative negligence and assumption of the risk, alleging that the broken cement was a known or obvious danger.

*Counsel for Plaintiff:* Denis P. Zuzik, Gbg.

*Counsel for Defendant:* John K. Bryan, Zimmer Kunz PLLC, Pgh.

*Trial Judge:* The Hon. Charles H. Loughran, President Judge

*Result:* Molded verdict for plaintiff in the amount of \$27,500. Plaintiff's contributory negligence was 45%.

**MARJORIE KAYE LUCAS**  
V.  
**SCOTT HUBER AND  
NANCY HUBER, HIS WIFE**  
**NO. 5257 OF 1998**

*Cause of Action: Negligence—  
Premises Liability*

On September 14, 1996, plaintiff was a guest of defendants in their home. As she was leaving, plaintiff slipped on the edge of the defendants' newly asphalted driveway. Plaintiff asserted negligence with respect to the steep slope of the edge of the driveway, the slippery nature of the surface material on the driveway and the defendants' failure to warn of these conditions. Plaintiff fractured the tibia and fibula of her left leg, which required two surgeries.

The defendants maintained that plaintiff's own contributory

*continued on page 8*

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## Jury Trial Verdicts *continued from page 7*

negligence and voluntary assumption of the risk barred recovery, and denied that the alleged improper acts or failures of the defendants were the proximate cause of plaintiff's alleged injuries and damages.

*Counsel for Plaintiff:* Steven W. Alm, Gbg.

*Counsel for Defendants:* David Chmiel, Solomon & Associates, Pgh.

*Trial Judge:* The Hon. Daniel J. Ackerman

*Result:* Molded verdict for defendants.

### SUSAN K. OLSON (CHICKA)

V.

AMY MULL

NO. 843 OF 2000

*Cause of Action:* Negligence—  
*Motor Vehicle Accident—Arbitration Appeal*

The plaintiff brought this negligence action as a result of a motor vehicle accident that occurred on March 15, 1999, in Greensburg. Plaintiff alleged she was stopped for a red light on East Pittsburgh Street, near its intersection with Tremont Avenue, when the defendant failed to stop her vehicle, striking plaintiff's vehicle in the rear. Injuries included ligament damage and neck

and upper back injury, causing severe muscle spasms, headaches and joint dysfunction.

The defendant denied that she operated her vehicle in a negligent manner and asserted the affirmative defenses of plaintiff's comparative negligence and the limited tort provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL).

*Counsel for Plaintiff:* Michael C. Maselli, Law Office of Marianne C. Mnich, Pgh.

*Counsel for Defendant:* Denis P. Zuzik, Gbg.

*Trial Judge:* The Hon. Daniel J. Ackerman

*Result:* Verdict for plaintiff in the amount of \$500.

### PAULA M. LOUGHNER AND JEFFREY LOUGHNER

V.

THOMAS LAERO

NO. 2513 OF 1999

*Cause of Action:* Negligence—*Motor Vehicle Accident—Loss of Consortium—Arbitration Appeal*

This motor vehicle accident occurred on April 1, 1998, in the left lane of Interstate 376, near the Edgewood Extension ramp.

The plaintiff, Paula Loughner, slowed her vehicle in rush hour traffic and was struck from behind by the defendant's vehicle, causing a five car chain reaction collision. Plaintiff suffered soft tissue injuries. Her husband claimed loss of consortium.

The defendant raised the affirmative defenses of contributory/comparative negligence and assumption of the risk, including the sudden emergency doctrine, and the MVFRL and its limited tort provisions. In reply to defendant's new matter, plaintiff asserted that full tort insurance coverage was selected.

*Counsel for Plaintiffs:* David A. Colecchia, Law Care, Gbg.

*Counsel for Defendant:* Christopher Fleming, Jacobs & Saba, Gbg.

*Trial Judge:* The Hon. Gary P. Caruso

*Result:* Molded verdict for plaintiff in the amount of \$2,000. No award for husband-plaintiff.

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### IN MEMORIAM

Paul L. Stevens, 54, a former president of the Pennsylvania Bar Association and managing partner of Sweet, Stevens, Tucker & Katz in New Britain, Pa., died Wednesday, September 12, 2001, at his home in Doylestown Township, Bucks County. We express our sorrow at his passing.



# Judge Irving L. Bloom Honored with MHA Award of Distinction

**O**n October 29, 2001, the Honorable Irving L. Bloom was awarded the prestigious Fred Funari Mental Health Association Award of Distinction. This annual recognition is presented by the Westmoreland Mental Health Association to an



▲  
*The Honorable Irving L. Bloom*

outstanding volunteer who has served as an advocate for those individuals struggling with mental illness.

The award is given to someone who works to change attitudes about mental illness and promote good mental health.

Community involvement and personal characteristics such as integrity, sensitivity and dedication are important determinants for the awardee.

Irv's profound capacity to do this work comes from his own life experience with depression and his activism in the mental health movement. Irv has been a frequent speaker at Bar functions, talking openly about his illness and recovery.

He now chairs the Westmoreland Bar Association Lawyers Concerned for Lawyers Committee and is prominent throughout the state for his leadership role in the Pennsylvania LCL program. Locally, Irv is frequently involved in one-on-one outreach to those in need.

Ken Hagreen, Executive Director of Lawyers Concerned for Lawyers, is very appreciative of Judge Bloom's efforts. "Irv is always available to help an attorney or judge in distress," says Ken. "He is the

epitome of what LCL stands for. Irv is a godsend to LCL and all attorneys everywhere."

Other WBA members who have received the Fred Funari Award are Tom Cole in 1982, Marnie Abraham in 1996, and Mike Johnson in 1998.

The award is a gold casted bell—a replica of the original mental health bell which was cast from chains and shackles formerly used to restrain individuals suffering from mental illness. The bell is the official symbol of the National Mental Health Association.

## point



"Irv has redirected his consummate skills as a trial attorney to his advocacy for those among us who are struggling to find and keep balance in our lives. And, for the members of our profession who have lost the ability to enjoy life, Irv, with the delicacy of a bull in a china shop, reaches out and guides them to the excellent resources available to get a fresh start. Irv is the epitome of a second chance at a healthy and productive life."

—Vincent J. Quatrini, Jr., Esq.

## counterpoint



"All I can tell you is this. If what Irv's on is a diet, I'd weigh 300 pounds."

—Morrison F. Lewis, Jr., Esq.



"Irv? Yeah, he's a nice guy, but he sucks at Trivial Pursuit."

—David J. Millstein, Esq.



"We are so pleased with Irv's recovery; it's made the world safe for Pac-Man."

—Stuart J. Horner, Esq.

# Excursion Turns Into Fateful Trip

After weeks of tireless investigation that involved the spreading of rumors and gossip and rifling through correspondence on the Executive Director's desk, *the sidebar* has learned that Dan Joseph's license to operate water vessels on behalf of the Westmoreland Bar Association has been revoked in light of an incident that occurred during this year's Bench/Bar Conference held June 14–16 at The Wisp.

The alleged incident occurred on Friday, June 15, a bright, summer day full of promise. The Bench/Bar Conference was in full swing and months of planning were coming together. The pontoon fleet bobbed peacefully in the waters of Deep Creek Lake, Maryland, awaiting the

arrival of its captain, Dan Joseph, and his hardy crew.

As the boats were boarded that bright Friday morning, spirits were high, but it wasn't to last. At some point on this fateful trip, things went horribly wrong. Some

on board described it as a sputter, a click and a string of swear words. Others weren't even aware that anything had gone wrong. However it happened, one thing is for sure, Captain Dan's boat needed to be towed back to the dock as evidenced from these exclusive photographs that were obtained by *the sidebar*.

Could this incident have been avoided? Were there warning signs that were ignored? Did

excessive hubris play a role? The following documents may hold the answers. You be the judge.



▲ The "unknown" captain of this vessel stranded his crew in the middle of the extremely deep and hazardous Deep Creek Lake. Reliable sources claim "Captain Dan" Joseph was at the helm.

April 5, 2001

I am happy to accept the great responsibility that has been placed upon my shoulders to lead the Westmoreland Bar Association fleet of pontoon boats.

Deep Creek, as you know, is an extremely deep and hazardous body of water. My research has disclosed that in the past 50 years alone, over 65 water craft have been lost on Deep Creek Lake, never to be found again. Accordingly, I fully realize the ominous responsibility at hand. However, I want my fellow boaters to rest assured that my seamanship credentials are impeccable. If anyone desires to review my credentials, they are available upon request.

I am requesting that my crew be made up of only the most hardy and adventurous of the WBA members. I will prepare a list of exercises that the proposed crew can do in anticipation of our departure. You certainly realize that seafaring adventures are not to be taken lightly. The crew must be prepared both mentally and physically. Should any of the potential crew members have any questions, please feel free to contact me.

Very truly yours,  
Captain Daniel Joseph

April 10, 2001

It has come to my attention that Horatio Hornblower, III (a/k/a Captain Dan Joseph) has been assigned the captaincy of the fleet for the Bench/Bar Conference, June 15, 2001.

I would like to register my extreme concern, on behalf of all sea-goers and landlubbers, at this most irresponsible selection. This is a captain who has gone down with his ship so often that he has single-handedly kept Chris Craft Company in business for the last 10 years. People have to take Dramamine just to listen to him speak on dry land. He makes Forrest Gump look like Vasco da Gama.

In closing, I would think that the only way that the Bar Association will be able to provide a crew for this captain's ship would be to shanghai sailors from their beds. More rum will be necessary, to prevent those sailors from going overboard. Do you know if Captain Dan can swim?

Yours for better boating,  
Richard E. McCormick, Jr., Judge

April 13, 2001

Although the McCormick family enjoys a long and illustrious lineage of lawyers and judges and golfers, I am unaware of any seamanship background in the family. Nevertheless, I can understand the fears evidenced by “landlubbers” on matters concerning the sea.

As I indicated in my prior letter, my credentials are, in fact, impeccable. I have plaques and certificates, all of which attest to my great seamanship abilities. You will recall the stories that are rampant concerning the time that Reg Belden and myself, along with Dick Galloway, brought his boat over from Kent Island to Annapolis Harbor in an extremely dangerous storm. Lightning was flashing all around and the seas were quite high. I am certain that if you talk to Dick Galloway and/or Reg Belden about this experience they will both attest to the fact that but for me, we most probably would not have arrived safely in Annapolis Harbor.

Additionally, I did not think at the time of my original letter that I would actually have to prove my incredible seamanship abilities. However, in light of the questions raised in Judge McCormick’s letter, I feel compelled to attach for your review copies of various certificates and awards that I have received in this regard.

I would be most happy to provide a firsthand experience to Judge McCormick and his entire staff of my seamanship abilities. I will offer all of them an all-expense-paid trip through a lock of their choice on the Allegheny River on a boat piloted by me. I would request that they RSVP as soon as possible since spaces are already filling up.

By the way, I cannot swim.

Very truly yours,  
Daniel Joseph



April 17, 2001

Regarding the personal tributes of Messrs. Belden and Galloway referenced in the Captain’s letter of April 13, I have spoken to those worthy seamen. President Belden characterized Mr. Joseph’s actions as “cowering,” while Governor Galloway said, “No comment.” Each of them did offer that “he’s as good a sailor as he is a parallel parker.”

As to the documentary evidence provided, I make the following observations: The Certificate of Completion of the Annapolis Powerboat School appears to have been signed by Cap’n Crunch; The Pennsylvania Fish and Boat Commission certifies that Captain Dan can put a life jacket on, which is quite an accomplishment; In light of the admission by Captain Dan that he cannot swim, I must point out that diving without swimming is known as sinking.

I have made my staff aware of Captain Dan’s offer of an all-expense-paid trip on the Allegheny River on a boat piloted by him. They all want to know where they can submit their resignation, should I require them to volunteer for such an excursion.

Yours for better boating,

Richard E. McCormick, Jr., Judge

▲  
*Top: As the boat leaves the dock, Dan Joseph is at the helm.*

*Middle: The captain uses a brown paper bag to hide his face while being towed back to dock.*

*Bottom: Dan Joseph disembarks with a brown paper bag in hand.*

*continued  
on page 12*

# Excursion Turns Into Fateful Trip *continued from page 11*

April 23, 2001

I am extremely dismayed to hear that my crew of Belden and Galloway have backed away from their prior words of praise that they gave me concerning the crossing of the Chesapeake during a violent storm. I would certainly hope that there was no judicial pressure applied to either of my crew members in order to have them retract prior laudatory compliments.

I think that what bothers me the most, however, is an allegation that I am not a fine parallel parker. Although I know this raises a new issue, I would like to point out to you that I will challenge anyone in the Bar Association to a parallel parking contest.

Messrs. Belden and Galloway have been with me when they were, in fact, the beneficiaries of my phenomenal parallel parking abilities. I would point to an incident in Ligonier when I was able to pull right in front of the restaurant so that my "older shipmates" did not have to walk far to eat. In fact, on that occasion, I even introduced them to a new concept in parallel parking of which they were totally unaware. I will not mention that in this letter since it is a family secret.

Concerning the main issue of the letter, that is my impeccable credentials as a seafaring man, I would note that during our "crossing of the Chesapeake," crewman Belden was holding on to the mast during a fierce lightning storm. I credit myself with saving his life by having him step away from the mast. I will not comment on his state of sobriety at the time that he was holding on to the mast.

As to Judge McCormick's reference to "Governor Galloway" (in reality Chair Galloway), my recollection is that during the tumultuous crossing he was down under in the ship's cabin. I guess I incorrectly assumed that both were well aware of my heroic efforts inasmuch as they both toasted me with complimentary comments afterwards.

Finally, I am in receipt of yet another certificate. I was certified on April 19, 2001, in the use of a heart defibrillator machine and CPR. I will now be able to combine my impeccable seamanship credentials with lifesaving ability. The best part is that the Bar Association gets this all free.

Again, although the McCormick family has a long and illustrious history of land-based activities such as golf and crochet, I am not aware of any water experience that the good judge may have except when he hits into it.

Very truly yours,  
Daniel Joseph  
Attorney at Law and Sea Captain



◀ The alleged credentials of Captain Dan.

April 27, 2001

This Dan Joseph, Attorney at Law, Sea Captain and parallel parker, must really want to pilot a pontoon boat. Next, he'll be taking a course in survival training for when he runs his boat aground on a desert island, or a course in paranormal activity so that he can communicate with his passengers from beyond after he's drowned them.

Everyone knows that the real Joseph family secret is that Dan was left on their doorstep by an itinerant pack of obfuscators. I am very grateful that Dan has training in CPR and defibrillation. When he's around, there seems to be a great need for those skills.

If we must declare Captain Dan as commodore of the flotilla, make sure there are double rations of Dramamine, life preservers for all hands, and defibrillators for the faint of heart. God knows we will need them.

And please cancel my spot on the poop deck.

With great trepidation,  
Richard E. McCormick, Jr., Judge

## On The Move ...

**H. KEITH HAUGER** is relocating out-of-state as of November 16, 2001.

**HOOKER & BROKER** has relocated its offices to 533 Rugh Street, Greensburg, PA 15601. The telephone number remains the same: (724) 838-8895.

**TOMM MUTSCHLER** has left the District Attorney's office and is now in practice at 749 North Church Street, Mount Pleasant, PA 15666.



# To-Wit: The Very Best Lawyer in the Whole Wide World



by S. Sponte, Esq.

**M**an, I was tired. There I was, sitting in my favorite coffee house, the one I stop in most mornings on my way to work, it was already almost ten, my cappuccino had long since fizzled, my chin was resting flat on the table and I had no immediate intention of getting on with my day.

I'm not talking rough night before tired here, I'm talking globally tired, universally tired, bone-weary tired, and what I was tired of was lawyering. Thirty-one years is a damn long time to be pushing square-headed clients through Justice's round hole, especially since both of those parties are frequently unwilling participants,

and I'm feeling quite burned out. In fact I often think these days of quitting the law, doing something else, anything else or maybe nothing at all.

Oh, I know that lots of you have practiced law a lot longer than I have, and that you just wish I would shut up and take it like a man. Well, just because you shut up and took it like a man doesn't mean I have to. Besides, I did family law for a long time and by my calculations that took a good ten years off my working life.

I would have been happy to spend the rest of my day in the coffee house, lost in my reverie and longing to be reunited with Gwyneth Paltrow, but two things mitigated against. First, the

establishment wanted to set my table for lunch, and second, I had a magistrate's hearing to get to.

Now normally I don't go to magistrate's hearings anymore, at least not these run-of-the-mill landlord-tenant cases. Usually my young partner handles these matters. But this was a case that came to me as part of my participation in my local Bar Association's Pro Bono program, and I couldn't pass it off to her. It just wouldn't have been right. Well, I mean I could have, but one of her kids was really, really sick that morning, inconsiderate little whelp, and she had stayed at home. So,

*continued on page 14*

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# To-Wit: The Very Best Lawyer *continued from page 13*

with fate clearly aligned against me, off I went to the magistrate's.

I knew before the case started that I would win. I knew that the client, a sad, lonely, young woman, living alone in a HUD-assisted apartment with four very young kids fathered by three different men, none of whom she had married—when I say she was lonely, I meant at the moment—could not be evicted because the landlord had not properly given her notice of the proceeding in accordance with the statute. Furthermore, she had already cured the breach of the lease by getting rid of her pet.

I had discussed the matter with her and had advised that, no, the “small domestic animals” permitted by the terms of the lease included neither her python nor the live rats she kept on hand as its snack.

The magistrate, luckily for me an

experienced and professional one, agreed completely, and the hearing was over in minutes. Thereafter we were back out on the street and I prepared to depart. Suddenly my client, heretofore rather morose, became quite animated. She smiled, she laughed, she shed a tear, she squealed “I am so happy,” and then leapt through the air at me bearing an incipient hug. At that moment my sense of self-preservation took

over, and I instinctively sidestepped her as one would sidestep an onrushing bus. Good thing too, for the portion of the well-worn

sidewalk she shattered upon landing could easily have been one of my cervical vertebrae.

“Thank you so much,” she said, as, despite my best efforts, she successfully managed to wrap her arms around my neck, “I thought I would have to move, now I don't, no one has ever done anything like this for me before, they said you were the best lawyer in the whole wide

world, thank you, thank you, thank you.”

The best lawyer in the world, huh? I couldn't let that pass. I asked who it was that had told her I was

the best lawyer in the world.

“Some guy in the checkout line at the supermarket, I don't know his name, but he said he knew who you were, you one time represented his third ex-wife's former brother-in-law, and that you were the best

lawyer in the world.”

We parted then, each going our respective ways. But as I drove back to the office, I became aware that my malaise had begun to lift. In fact, I began to feel pretty good. It had been so long since I had done such a hearing that I had forgotten how many really downtrodden folk there are out there whose lives, when infused with just the slightest act of kindness, take on, however briefly, a luster, a glow, a faint glimmer of hope, and I had likewise forgotten just how good it feels to do that for someone who otherwise doesn't experience it at all.

Okay, so maybe I have become tired of lawyering of late, and okay, so maybe the passing years have lacquered me with a veneer of cynicism that sometimes clouds my view. But it's cases like these that always remind me why I wanted to be a lawyer, why I've loved it, and why I'm not quite ready to quit after all. I mean, what would all those people out there do without the very best lawyer in the whole wide world?

© 2001, S. Sponte, Esq.

**Thirty-one years is a damn long time to be pushing square-headed clients through Justice's round hole.**

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# Holiday Dinner Dance Returns to Greensburg Country Club Dec. 8

The Annual Holiday Dinner Dance of the Westmoreland Bar Association returns to the newly renovated and reopened Greensburg Country Club on Saturday, December 8, 2001.

In April 1999, fire destroyed the restaurant portion of the Greensburg Country Club and heavily damaged the rest of the clubhouse. GCC members voted to rebuild and the club was opened earlier this year.

The evening's festivities will begin with cocktails and hors d'oeuvres being served at 6 p.m. Dinner, which includes crab cakes, gorgonzola and spinach quiche,

teriyaki beef brochettes, chilled potato and leek soup, bibb an watercress with tomatoes and walnuts, sautéed vegetables, and your choice



of roasted prime rib of beef, veal marsala or salmon, followed by a tiramisu mousse dessert, will be served at 7 p.m. Dancing to the

music of City Heat—an outstanding and very popular seven-piece variety-dance band with drums, keyboards, guitars, female vocalist and three horns—begins at 8 p.m.

Tickets are \$45 per person. Attendees may also choose to donate an additional \$5 per person to benefit the Outreach programs of the Westmoreland Bar Foundation. A discount of \$10 per couple is extended to lawyers admitted to practice five years or less.

Look for your invitation in the mail and mark your calendars. We hope you'll join us for an evening of camaraderie and holiday cheer.

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# Actions of the Board

## SEPTEMBER 18, 2001

- Accepted membership committee recommendations for Mary Meisner as a participating member and Wayne McGrew reinstated as participating member.
- Agreed to ask judges to endorse court-appointed counsel fee increase to \$50 per hour.
- Discussed the tragedies of September 11 and agreed to assign the foundation's Outreach Committee with possibility of offering to help reservists with getting their personal papers in order.
- Heard report concerning future reduction of funding from IOLTA for Westmoreland's Pro Bono program because IOLTA board supports startup and funding of other Pro Bono programs.
- Voted to split the state dues increase 50/50 so that one-half is subsidized by the WBA and considered an additional member benefit and one-half of the increase is passed on

to members. Accepted the recommendations of the Finance Committee to revise the dues structure of the WBA for the Young Lawyers beginning with the 2002 dues billing as such:

1st year	=	FREE
2nd year	=	\$107.00
3rd year	=	\$160.50
4th year	=	\$214.00
5th year (Full Participating)	=	\$262.50

- Accepted recommendation of the Building Committee to authorize Architect Morris to meet with the Westmoreland Trust's architect at the Trust's expense to review the present structure of the Bar building and to work with the Trust's architect on any other proposed site for the bar association which would include 10,000 square feet on one or two levels.
- Authorized Architect Morris to proceed with estimating alteration plans for construction of storage

closet for chairs in back room of third floor, changing elevated room on third floor to coat room, adding cabinet faces to coat racks in rear of third floor, constructing an A/V cabinet on the third floor and expanding the kitchen/work room on second floor.

- Approved purchase of two serving carts to be used in serving committee luncheons and such.

## OCTOBER 16, 2001

The annual bench/bar leaders meeting included attendance from Judges Caruso, Ackerman, Blahovec, McCormick, Jr., Pezze, Loughran, Hathaway, Ober, Marsili, and Bell.

Topics of discussion included: court appointed counsel fees, retention specifics, futures commission town meeting, electronic research offered as new 2002 PBA benefit.

- Judges agreed to support board request to increase hourly rate for court-appointed fees, which has not been increased since 1992, to \$50.
- Informed judges of the new PBA benefit that will include electronic research through LexisNexis at a cost much less than the county is presently paying. For about \$65 per year attorneys, who are not now members of the WBA, can become members and receive the internet benefit.
- Heard report from Treasurer Munk that industrial appraisal has been received and will be forwarded to the insurance company for review of current coverage to ensure that our present coverage coincides with the appraised value. Agreed to change the insurance coverage, if needed, to match the most current industrial appraisal.
- Voted to reappoint Mr. Joseph, Mr. Zuzik and Mr. Galloway for an additional term on the LLS board and to appoint Mr. Falatovich to fill the unexpired term of Beth Orbison.
- Approved the recommendations as presented by the President and Executive Director for the December 8 Holiday Dinner Dance at the Greensburg Country Club. Voted to subsidize the YL attendance at the Dinner Dance in the amount of \$10 per couple. Voted to include a \$5 optional check-off on the Dinner Dance invitation for contribution to the bar foundation.

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The WBA website contains up-to-date information about upcoming meetings, events and CLE seminars.

For meetings and events, start at [www.westbar.org](http://www.westbar.org), click on the "Services" button, and then on the "Activities Calendar" button.

For CLE seminars, start at [www.westbar.org](http://www.westbar.org), click on the "Services" button, and then on the "Continuing Education" button.

- Authorized the President and the Executive Director to extend a dinner invitation to VIP guests involved in the town meeting of the futures commission scheduled at UPG on October 30 at 7 PM.
- Reviewed the Quality of Life CLE/Quarterly Meeting held on October 11. Evaluations were high for the topic, moderator and panel.
- Heard report from UPL co-chair Aaron Kress that the Pennsylvania Supreme Court refused to hear the appeal on the decision from the Common Pleas Court regarding the tax assessment appeal.
- Agreed to recommend to PBA to look at realtors ad campaign for their public relations campaign for ways to foster better understanding for the work that lawyers do for their clients.
- Agreed to organize a panel of experts to help with reservists called to active duty. Agreed to invite Pete Cherellia, Larry Kerr, Tim Geary, Becky Brammell, George Love to serve on panel.

*New Member Sketches*

*Charles J. Dangelo* has been admitted as a participating member of the WBA. A graduate of Greensburg Central Catholic High School and the University of Pittsburgh, Charles earned his master's and juris doctor degrees from Duquesne University. He is currently employed as a law clerk for The Hon. William J. Ober of the Court of Common Pleas of Westmoreland County. Charles and his wife, Amy, live in Greensburg with their two children, Vincent and Maria.

*Michael A. DeMatt* has joined the WBA as a participating member. A graduate of the University of Delaware and Washington & Lee University School of Law, Michael is employed by Berk Whitehead Kerr Feliciani & Turin, P.C., in Greensburg. He and his wife, WBA member Amy Mears DeMatt, live in Greensburg.

*Wayne P. McGrew* has rejoined the WBA as a participating member. A graduate of Yough High School, Indiana University of Pennsylvania and Ohio Northern School of Law, Wayne returns to the WBA after a stint with the FBI. He and his wife, Larissa, live in Irwin.

*Mary M. Meisner*, a clerk for The Hon. Joseph A. Hudock of the Superior Court of Pennsylvania, was admitted to the WBA as a participating member. A graduate of Greensburg Central Catholic High School, Seton Hill College and the University of Pittsburgh School of Law, Mary lives in Pittsburgh with her husband, Gregory.



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news

# foundation focus

## Meet Pro Bono's Kate Wiatrowski



If you haven't been by the Pro Bono office lately, then you've missed the opportunity to welcome the Westmoreland Bar Foundation's new paralegal Kate Wiatrowski. Kate's position is made possible through additional grant money from IOLTA which makes Westmoreland one of only two bar foundations receiving this funding.



▲  
Kate Wiatrowski

Previously, Pro Bono Coordinator Iva Munk operated the Pro Bono office with the help of two part-time receptionists. Now, with a full-time paralegal on staff, services can be expanded in custody and civil matters involving the poorest of Westmoreland County's citizens.

A graduate of Penn Trafford High School, Kate received her Associate's degree in Legal Studies from the

Westmoreland County Community College. Previously she worked with Attorney Maureen Kroll and handled family law issues and social security disability. She continues to work part-time on disability cases and has recently been accepted to the University of Pittsburgh to study Public Administration.

Since beginning with the WBF on September 4, Kate has been a positive addition. She works closely with the three custody attorneys, Becky Fenoglio, Kathleen Kemp and Maureen Kroll, on research and filing of necessary papers. She assists in handling the initial client intakes, screening clients over the phone, drafting office correspondence and is being trained to cover the office in Iva's absence.

"Kate's legal training and her

'can-do' attitude have worked well with the program," says Iva. "I'm excited about the level of service we can provide to those in need and the help we can give to attorneys who volunteer through the 'Attorney for the Day' program."

It is the hope of the WBF—the managing organization for Pro Bono—that Pro Bono continues to grow. With funds diminishing for Laurel Legal Services, Pro Bono may well be the only alternative for those not able to afford basic legal representation.

"A great deal of the success of the Pro Bono Program is due to our volunteer attorneys," says Iva. "It is their willingness to get involved that has made the difference. With Kate on board, we have just kicked it up a notch."

## Looking for a special way to remember someone?

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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 N. Pennsylvania Ave., Greensburg, PA 15601.



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# 34th Annual Red Mass Celebrated

The 34th annual Red Mass was held Friday, September 28, 2001, at Saint Vincent Basilica in Latrobe. Clergy, government officials, lawyers and judges gathered in celebration of the Mass, which has been jointly sponsored by the Diocese of Greensburg and Saint Vincent Archabbey, College and Seminary since 1968.



▲  
C.J. Queenan, Jr.

This year's keynote speaker was C.J. Queenan, Jr., Esq., Senior Counsel in the law firm of Kirkpatrick & Lockhart LLP in Pittsburgh. He focused on the events of the September 11 terrorist attacks and urged attendees to "be not afraid."

"We are a country, a country that went from order to dismay in a matter of hours," he said. "Our innocents were slaughtered and a brutal clarity came to light that day. These are chaotic times and we are encouraged to pray.

"Your daily practice has each of you dealing with chaos on a frequent basis. The question now becomes,

'Are you ready to deal with it and what can you do?' I urge each of you to get out there. I urge you to get involved. Use your skills and your ability to return order. You are the stuff on which this country is made of; lawyers are encouraged to give back."

The Red Mass has a long history within the Catholic Church dating back to the thirteenth century when it marked the official opening of the new term for courts in most European countries. The participants would process into the church clothed in red vestments, signifying their plea for the Holy Spirit's guidance in pursuing justice in their daily lives.

The Red Mass is currently celebrated throughout the United States to invoke God's blessing upon the members of the bench, bar, legislature, law enforcement and governmental agencies—all protectors and administrators of the Law.



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# CALENDAR of Events

## NOVEMBER

- 14 Juvenile Court CLE,  
8:45 a.m.–4:45 p.m.  
Finance, Noon  
Membership, Noon  
Real Estate, Noon  
Inns, 5 p.m.
- 15 Elder/Orphans', Noon
- 16 Real Estate CLE,  
Noon–2:15 p.m.
- 17 Theatre Night: "The Caine  
Mutiny Court Martial,"  
Courtroom No. 3
- 20 Employment & Labor, Noon  
Family Law, Noon  
Board Meeting, 4 p.m.
- 28 Solo/Small Practice, Noon
- 29 "Restrictive Covenants" CLE,  
Noon–1:15 p.m.

## DECEMBER

- 8 Holiday Dinner Dance,  
Greensburg Country Club
- 11 Municipal Law, Noon



## Top Ten Most Popular New CLE Courses

1. House Arrest—A Weekend Experience
2. The Effects Of Pornography On The Cerebral Cortex
3. Handling The Anthrax Case
4. Terrifying Young Lawyers For Fun And Profit
5. Calculating The Contingency Fee
6. Spelling For Family Law Practitioners
7. Suing The Elderly
8. When All Else Fails—Using "No Proper Foundation"
9. Double Billing The Schizophrenic—An Ethical Problem
10. Sexual Harassment In The Workplace—A Passing Fad



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