



New Leaders Chosen, Awards Given at Annual Meeting

Timothy J. Geary assumed the office of President at the Annual Meeting of the Westmoreland Bar Association held on Monday, April 1, 2002, at the Greensburg Country Club.

A partner with Geary and Loperfito, LLC, in Vandergrift, Tim is a graduate of the University of Delaware, with a B.S. in Economics, and the University of Pittsburgh School of Law. A former assistant district attorney for Westmoreland County, Tim's practice covers criminal, civil, corporate, business, estate and real estate law.

Tim succeeds John Campfield and will serve a one-year term as President.

OTHER ELECTION RESULTS

Robert I. Johnston was elected Vice President for the 2002-2003 term. In a general election, James E. Whelton, Jr., was chosen to fill the vacant Director seat on the board.



◀ *Outgoing President John Campfield passes the gavel to incoming President Timothy J. Geary. Tim will serve a one-year term as President.*

Continuing to serve on the board are President-Elect Aaron M. Kress, Directors James R. Silvis and Rebecca A. Brammell, Past President John Campfield, Treasurer Milton V. Munk, Jr., and Secretary/Executive Director Diane Krivoniak.

Judith K. Ciszek and Larry D. Loperfito were elected to serve five-year terms on the Membership and Building Committees, respectively.

AWARDS GIVEN AT MEETING

Awards given at the meeting included The President's Award for Professionalism as well as the Pro Bono Attorney, Young Lawyer and Committee of the Year. The recipients are as follows.

John M. O'Connell, Jr.

PRESIDENT'S AWARD FOR PROFESSIONALISM

The President's Award for Professionalism is not an annual award, but is presented to a WBA member who best exemplifies the highest standards of the profession with

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◀ *President's Award for Professionalism honorees H. Reginald Belden, Jr. (1998), Jack L. Bergstein (1999), John M. O'Connell, Jr. (2002), and Richard H. Galloway (2000).*

President's Message

It's How It Looks Like It Is

by Timothy J. Geary

I was admitted to the bar on Wednesday, October 15, 1975. The following Monday, I put up my shingle in Vandergrift, Pa. I had one client. This was more than my combined number of computers, fax machines, Palm Pilots, photocopier machines, dictation machines, VISA card input modems and output printers, touch-tone phones, car phones, cell phones, camcorders for depositions, and quite frankly a host of other fancy equipment that today I can't seem



to do without. Although I was a new attorney, it was a time when the public still thought that being an attorney was an honorable profession, and they respected me because I was an attorney.

Recently I was watching CNN (something else that didn't exist in 1975) and during the reporting on the crematory in Georgia (the one with all the bodies scattered around the crematory grounds), the announcer showed a recent telephone poll of viewers and how they rated funeral directors as a profession in terms of basic honesty and ethics. What I remember was that police officers were ranked highest at 68% (which showed this old criminal defense lawyer that the poll was certainly flawed), funeral directors were rated at 36%, Catholic priests were rated at 28% (I immediately thought of Father Grady at the all-boys Jesuit High

School I attended in Portland, Maine, who we students referred to as "Grabs" Grady or sometimes "Father Fondle" and thought the priest ranking was somewhat low but not entirely unfair). Lawyers were ranked at 18% and used car salesmen at 15%. I was stunned to think that even in this type of poll, especially one which was not about lawyers in general, that we would be rated only 3 points higher than used car salesmen!

I then thought about my first court appearance, a preliminary hearing on an aggravated assault charge. It was not so much my experience that caused the client to retain me as it was the low fee I charged. I mean \$100 seemed like a lot of money! The magistrate held the case for court and during our discussion he said to me, "It is not how it is that matters, it's how it looks like it is that matters!"

I thought about that for awhile and decided he was right. I mention this because in thinking about the poll I realize that when I started my law practice it was before what I think the public perceives as the event which caused lawyers to "look like" used car salesmen.

The event, in my opinion, was the U.S. Supreme Court decision in *Bates vs. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977) which held that blanket bans of lawyer advertising violated the First Amendment. I don't mean to imply that lawyer advertising is wrong (it isn't because the Supreme Court said it isn't). What I do mean to imply is that we

lawyers are solely responsible for the way we are perceived.

I am not talking about a photocopy of a business card in a high school football boosters' game program or firm monogrammed pens or the like but the "come-on ads," like the one that says "If you really need to win, call me!" Talk about the sleaze factor! We reap what we sow, and unfortunately what we are reaping is the all too often perceived notion that we are all a bunch of ambulance-chasing lowlifes. We created that image and only we can change it.

I challenge you to do that by showing the people in your own communities that many lawyers give freely and tirelessly to improve our cities and towns. Many lawyers serve on various community boards and committees, coach a little league team, serve their church. Think of the countless hours that many of our colleagues perform "pro bono" for the less fortunate among us.

What have you done lately to improve our image? Why is it in a county with over 500 lawyers and only 17 school districts that our Mock Trial Program has never had more than 10 high school teams entered in any one year? There is certainly no lack of places where a concerned lawyer can help. However, if you are the type to let someone else do all the work at least the next time some dipstick tells a lawyer joke let him know where he might be in a country without lawyers.

Judge Loughran Says “Farewell”

by *The Honorable Charles H. Loughran*

Why? Why am I retiring? When I was a young man I had the opportunity to explore the United States one summer with two friends. My mind was free of any responsibilities and my sense of humor and love of life were in full swing. Shortly, thereafter life began to get serious—law school—ugh. It immediately became clear that the law was, as advertised, a “jealous mistress.”

My life and my personality began to change—the business of law was all-consuming. Trial work was so demanding of my evenings and weekends, that there was never time for recovery or family.

I watched my father and his legal colleagues work till they died—never thinking of retiring. Sadly, I listened to one of our revered members of the bar weep at his wife’s funeral (a truly beautiful person), “I should have spent more time with my wife”—how prophetic!

I also have a beautiful spouse, in all the sense of that word, and I refuse to let these coming days go by without her company. I want to travel, relax, and play sports together. I want to paint, sculpt in clay, see museums, read, etc., etc. Who says we have to marry the law till death do we part!!! It’s my chance to move on and begin my new life with a renewed sense of purpose.

Don’t misunderstand me, this profession is and was an exciting job. Working with my father as a teacher and counselor was a unique and privileged experience. I was taught by the best to be the best and made a good living for my family.

I was born in a town where my parents and grandparents were well respected and successful. Greensburg is and was a perfect small town for raising my two daughters who have given me nothing but joy and more recently three grandchildren.

I live in the house of my dreams with the wife of my dreams. I have been able to avoid the dreaded commute by walking to the job I love, walking to the YMCA to exercise and being home in front of a fireplace with a drink in hand before 6:00 p.m. On the way, I often hear “Hi, Chuckie,” and look up to see old childhood friends—I have been so fortunate in life.

I have mixed feelings about retiring. I’m not ashamed to say I’m somewhat afraid—afraid of the unknown—will I be bored? Will I have enough money? Will I be happy? There is no turning back and I can only hope that I made the right decision and can recapture those happy days that are free of responsibility. Maybe I can even slow down my golf swing.

I would like to thank the Appellate Courts, my fellow Judges, the members of the Westmoreland Bar Association, the Inns of Court, the Westmoreland Academy of Trial Lawyers, and the Western Pennsylvania Trial Lawyers Association, who have been supportive of me in my work as Judge. Being a Judge these past 25 years has been an extremely enjoyable experience and a wonderful way to cap one’s professional life. How grateful I am to the voters of Westmoreland County for expressing their confidence in me.

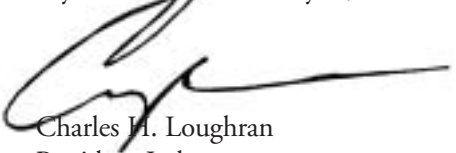
I’m beholden to the WBA for their overwhelming support in my retention bids. In your vote of confidence, and in forming effective committees, you saved me the hassle and expense of retention campaigns.

I thank the members of the Inns of Court for asking me to be their President. My fellow Judges flattered me by electing me to be their President when Judge Scherer died suddenly four years ago. Both of these honors made me very proud. I hope I have served you well, and kept the public trust.

In closing, I want to applaud Paul Kuntz and his staff for their always-insightful advice and assistance these past four years. I would be remiss if I didn’t thank Diane Krivoniak and her staff for their help not only as a Judge, but also as President Judge. Last but not least, I am grateful to our Librarian, Betty Ward, for her help these past many years.

I look forward to working with you as a Senior Judge.

My best wishes to all of you,



Charles H. Loughran
President Judge

P.S. Finally, I want to thank the trial lawyers who appeared at my last Call of the List on February 28. Your “send-off” was very warm and touching.



▲
*The Honorable
Charles H. Loughran*

Leaders Chosen, Awards Given *continued from page 1*

O'Connell *continued*

regard to the practice of law and is presented when the dedication and achievements of an individual should be acknowledged.

At this year's Annual Meeting, John M. O'Connell, Jr., a partner with O'Connell and Silvis in Greensburg, was named the fourth recipient of this distinguished award, recognized for his achievements in 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.

A past-president of the WBA and the Westmoreland Academy of Trial Lawyers, John also served as a member of the PBA House of Delegates. He presently is a founding fellow with the WBF.

Jack L. Bergstein

**PRO BONO ATTORNEY
OF THE YEAR**

Jack L. Bergstein, senior partner of Bergstein & Galper, P.C., in Monessen, was named Pro Bono Attorney of the Year at this year's Annual Meeting. The presentation was made by the Honorable Gary P. Caruso, who recognized Jack for "his character and for his devotion to both his

profession and his service to others."

Since the inception of the Pro Bono Program, Jack has shared his expertise in civil and family law with those in need, handling an average of four *pro bono* cases a year for indigent residents of Westmoreland County.

"I am proud that I could play a small part in the growth of the Pro Bono Program which allows many more people to be represented in their cases," he says. "I am indeed proud to be a part of the WBA which has led the way in expanding *pro bono* services to the public."

As president of the WBA in 1990, Jack found it very frustrating to see individuals who were not eligible for legal aid, but were unable to afford legal help, fall through the cracks in the system. "I felt we needed an organized effort to assist these people," he said. His efforts helped lay the groundwork for the Pro Bono Program of the WBF.

Jack's accomplishments have not gone unnoticed by the state bar. He is slated to receive the PBA Individual Pro Bono Award at its annual meeting in early May. His advice to future awardees is "to look at this program not as a requirement to participate, but as a joy in being able to help others in need."

A past-chairman of the Board of Trustees of the Westmoreland Bar Foundation, Jack continues to serve as a trustee. He is a past-president of the WBA, the Westmoreland Academy of Trial Lawyers, and the Western Pennsylvania Trial Lawyers Association. He is also a member of the statewide task force on the Delivery of Legal Services to the Needy.



▲ WBA Director Jim Silvis presents the Young Lawyer of the Year Award to Lisa Galloway Monzo.

Lisa Galloway Monzo

YOUNG LAWYER OF THE YEAR

For Lisa Galloway Monzo, Restorative Justice Coordinator for the Westmoreland County Juvenile Court system and this year's Outstanding Young Lawyer, wishes do come true.

"I literally grew up in the WBA, admiring the members and wanting to become one of them for as long as I can remember," Lisa said. "My fondest wish was to join my father [Dick Galloway] as a member of the WBA. I cannot describe how moving it was for me to be recognized by that group as the Young Lawyer of the Year."

The Young Lawyer of the Year Award is given to the young lawyer who best exemplifies outstanding leadership and distinguished service to the legal profession and the community.

As the former chair of the Young Lawyers Committee, Lisa was instrumental in establishing a number of projects including a service project through the Adopt-A-Highway Program of

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◀ Jack L. Bergstein accepts his Pro Bono Attorney of the Year Award from WBF Chair Marnie Abraham.

A Good Man to Have in the Front of the Plane

by Robert I. Johnston, Esq.

With something akin to the mythical alignment of the stars, Tim Geary assumed the mantle of President of the Westmoreland Bar Association on April Fools Day, 2002. Makes you wonder, doesn't it.

Tim hails from that part of the county most of us think of as New Kensington but he insists is actually Vandergrift. He is one more in a long line of Bar leaders from the north of the county. Name another, you say? How about next year's president? But I digress.

I've known Tim for more than 20 years. We were assistant district attorneys together back then and we've served on the Board and participated in the Inn of Court for years. Yet I found I really knew little about him before being commissioned (and unpaid) to do this piece. Here's what I learned.

In the interest of brevity, I'll leave out the early years. Suffice it to say that Tim isn't from around here.

He joined the Air Force in 1963 after two years at the University of Maine. (Because of a similar interruption in my own education sometimes appearing on my résumé, I was too embarrassed to inquire about the circumstances).

Tim became a navigator and flew on active duty until 1970 and in the Air National Guard until his retirement as a Lieutenant Colonel in 1987. Tim has many interesting stories about his adventures in the

military but most of the ones I've heard are either not true or can't be printed here. They are great fun to hear though, and he sure loves to tell them to anyone willing to buy the next round.



▲ WBA President Timothy J. Geary

After finally graduating from college, Tim attended Pitt Law School and opened a private practice in Vandergrift. In what seemed at the time a cruel joke to his friends, Tim's father-in-law reportedly made available a basement office in which the ceiling was only about 5' 9" high. In any event, after about four years tending to the

needs of the "wee folks," as they say, he became an assistant district attorney in Westmoreland County, eventually making a name for himself by prosecuting the longest running case, civil or criminal, in county history.

In 1983, Tim left public life and returned to Vandergrift to practice law, this time with a full-sized office. He is now a partner in the firm of Geary and Loperfito and has the great pleasure of practicing with his son, Tim, Jr. His daughter, Gillen, is also an attorney

and practices Workers' Compensation defense in New Jersey.

Tim and his wife, Gillen, love to travel and Tim both runs and plays golf, although he is reputed to be better at running. He is also extremely proud of his wine collection, which he began in 1993, and has often been heard to boast that his first acquisition, a fine bottle of Bolla, is still worth about \$8.00.

For what it's worth, if I were on an airplane, I'd feel comfortable knowing Tim was up front, or wherever it is they make the navigator sit. I sort of feel the same way about his being the president of our bar association. Besides, it's only for a year.

(FYI: The answer to the question I posed earlier is Aaron Kress, next year's president.)

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Candid Camera: 2001-2002 Annual Meeting



▲
"John, you can let go now ... John, come on, let go ... hey, John ..."



◀ *Once again, Reg, Jack, Dick and John, or as we know them, The Lawyer League, courageously save the world as we know it by preventing the South Wall, seriously weakened by a relentless fusillade of banality, from collapsing on the drink table.*



◀ *"Now I lay me down to ... no, that's not it, oh yeah, God bless Mommy and ... no, wait, that's not it either, got it, there once was a girl from Havana, ... nope, where'd I put that damn copy of 'Prayers For All Occasions?' Ron!!!"*



▲
"John, hey, this is embarrassing enough, take off the damn hat."

▶ *"Bob, I've been meaning to talk to you. Is this obsessive need of yours to put your arms around other men interfering with your ability to practice law?"*



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▲
"Behold the power of cheese...and garlic."

Spotlight on George W. Lamproplos



Q WHAT JOBS HAVE YOU HELD PRIOR TO BECOMING AN ATTORNEY?

A U.S. Army, truck driver, clerk and waiter.

Q WHICH WAS YOUR FAVORITE AND WHY?

A Truck driver—I could frighten other drivers.

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

A Representing a fortune teller who had been charged by the State Police with accepting money to tell an undercover agent his fortune. In cross-examination I asked the Trooper for details. The Trooper said he paid \$5.00 to have her tell his fortune.

“Did she?” I asked.

“Yes,” he answered.

“What did she tell you?”

“Among other things she said I would be making a trip to Texas.”

“Were you planning to go to Texas?”

“No.”

“Did you go to Texas?”

“Well, yes, but only after the visit to the fortune teller.”

Judge Rial started laughing along with everyone else in the courtroom and then dismissed the case.

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

A Brevity with humor.

Q WHAT IS YOUR FAVORITE JOURNEY?

A Greece.

Q WHAT IS YOUR GREATEST REGRET?

A Not being able to marry the girl of my dreams—Ingrid Bergman.

Q WHO ARE YOUR HEROES IN REAL LIFE?

A Justice Oliver Wendell Holmes and Charles Goren.

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

A Consider another job.

Q WHAT DO YOU CONSIDER TO BE YOUR GREATEST ACHIEVEMENT?

A Practicing law for 60 years and still maintaining a degree of sanity.

Q WHAT IS YOUR IDEA OF PERFECT HAPPINESS?

A An interesting case with a good judge and a good opponent or a good bridge game followed by a good martini.

Q WHAT IS YOUR MOST TREASURED POSSESSION?

A My dog, Socrates.

Q WHAT IS YOUR GREATEST EXTRAVAGANCE?

A Bow ties.

Q WHAT IS IT THAT YOU MOST DISLIKE?

A Garrulousness.

Q WHAT TALENT WOULD YOU MOST LIKE TO HAVE?

A Photographic memory.

Q WHAT DO YOU MOST VALUE IN YOUR FRIENDS?

A Understanding.

Q WHICH PERSON DO YOU MOST ADMIRE?

A Dean Acheson.

Q WHAT IS YOUR MOTTO?

A Everything in good measure (Plato).

On The Move ...

JEFFREY ABRAMOWITZ has joined Greg Moore & Associates, 121 W. Second St., Greensburg, PA 15601; phone 724-838-8422; fax 724-838-0291.

JAMES BOGGS of Allegheny Energy has moved to 4350 Northern Pike, Monroeville, PA 15146-2841; phone: 412-858-4178; fax 412-856-2393.

GARY FALATOVICH has opened an office at Keystone Commons, 35 W. Pittsburgh St., Greensburg, PA 15601; phone 724-834-7080; fax 724-834-7082.

KATHLEEN KEMP has joined Laurel Legal Service, 306 S. Pennsylvania Ave., Greensburg, PA 15601; phone 724-836-2211; fax 724-836-3680.



practice tips

Ten Support Practice Tips

by Michele G. Bononi, Esq.

Pennsylvania Support Practice adheres to a specific section of Rules that are further explained through case law.

The starting point is the support guidelines found in Pa.R.C.P. § 1910.16 et seq. Any attorney representing an individual in a support action should first review this section. Westmoreland County has chosen Rule 1910.12 which

hears these actions under a three-tier system. The following ten points highlight ten main areas.

1. NET INCOME—The attorney should take note of what both parties' net incomes are. Too often an attorney takes for granted what is shown on a pay stub. The guidelines require some minimum knowledge of tax law, as it can affect one's net income. Under Rule 1910.16-2(a), tax refunds are recognized as income. If an individual overwithholds on his or her federal tax

return, or if a person received an earned income credit, the person's income will actually be higher than what is shown on their pay stub. The attorney should also make sure that all deductions under Rule 1910.16-2(c), such as non voluntary retirement plans and union dues, are deducted from net income.

2. DEPENDENT DEDUCTION—In 1999, case law first recognized that the court, after considering the tax consequences, could award the noncustodial parent the federal child dependency tax exemption. In October 2001, Rule 1910.16-2(f) adopted this rule and now allows the Court to make this decision. If an attorney is representing the noncustodial parent and this benefit would reduce the client's tax liability, the court may even Order the other party to execute the waiver under the IRS code.

3. MEDICAL INSURANCE—The attorney should note that both Rule 1910.16(b) and 23 Pa.C.S.A. § 4326 require that the noncustodial parent bear the initial responsibility of providing health insurance coverage. If your party is paying for this insurance, the premium cost should be allocated between the parties in proportion to their net incomes, and then subtracted or added to the support obligation. However, keep in mind that in cases where one party has no or minimal income, the insurance premium should be subtracted from the other party's gross income.

4. CHILD CARE—Under Rule 1910.16-6(a) child care expenses, if found to be reasonable, will also be split in proportion to net incomes. However, this amount may be reduced by up to 25% to reflect the federal child care tax credit.

Leaders, Awards *continued from page 4*

Monzo *continued*

PennDOT, Lunch 'n Learn programs, and the Young Lawyers Hospitality Suite at the Bench/Bar Conference. Her efforts enabled the Young Lawyers to become an active and productive committee.

Active in the PBA, as well, Lisa is currently serving her second term in the House of Delegates and as the PEACE project attorney assigned to Maxwell Elementary School for the past three years. She has served on the Futures Commission Community Outreach Committee and was a panelist at the Town Meeting on the Future of Juvenile Justice held last year at the University of Pittsburgh at Greensburg.

Westmoreland County is the best place in the world to practice law, according to Lisa. "People are genuinely caring and interested in the development of young lawyers," she said. "I've had a ridiculous amount of fun and made lifelong friendships through the WBA. I feel incredibly blessed



▲ Judge Irving L. Bloom, Chair of the LCL Committee, accepts the Committee of the Year Award from WBA Vice President Robert I. Johnston.

to be able to practice in such a wonderful community."

LCL COMMITTEE OF THE YEAR

The Lawyers Concerned for Lawyers Committee was awarded Committee of the Year at this year's Annual Meeting.

Accepting the award was LCL Chair Judge Irving L. Bloom, who was recognized for his dedication to helping colleagues in crisis.

5. UNREIMBURSED MEDICAL

EXPENSE—Under Rule 1910.16-6(c), the first \$250.00 per year, per person will be borne by the party bringing the action. However, in the initial year that the support obligation is entered, a new exception exists which states that it should be treated on a calendar year basis. In this case, the \$250.00 threshold shall be pro rated according to the month the order is entered.

6. SOCIAL SECURITY

BENEFITS—SSI is never income for support purposes. SSD benefits received are income. The fact that a child receives a benefit from a parent does not mean there is no support obligation. Rule 1910.16-2(b) states that this benefit will be added to the parties' incomes, then the support obligation will be determined. The SSD benefit will be subtracted from this obligation and the remaining amount owed will be split in proportion to the parties' incomes.

7. DEPRECIATION—

Depreciation is not automatically added to a person's income. The Supreme Court case of *Labar v. Labar*, 731 A.2d 1252 (Pa.1999) states that depreciation expense is an allowable deduction for the purposes of determining income available for child support only if it actually reduces one's cash flow.

8. SELF EMPLOYED INDIVIDUALS—

On Schedule Cs and corporate returns, the attorney should always question what actual expenses are being deducted, as many times nondeductible personal expenses are taken to lower one's net income for support purposes. Areas to closely scrutinize include automobile and utility expenses.

9. SPOUSAL SUPPORT—

When a custodial parent owes spousal support, Rule 1910.16-4(e) requires that the spousal support obligation first be determined, then added to the parties' incomes. From

here the child support obligations must be figured and offset against each other.

10. DEVIATIONS/ADDS ONS—

Keep in mind that the support order may be increased for such items as private school tuition or excessive mortgage. Likewise, the support obligation may go up or down based upon Rule 1910.16-5(b) which lists the reasons for deviating upward or downward.

This covers the most frequently raised areas in support practice. However, keep in mind that many cases are fact specific. While the statute and case law cover a wide range of these fact patterns, there are still many facts where no guidance is offered. In these areas, the practitioner should always use Rule 1910.16-5(b)(e) which states a deviation can be given for "other relevant and appropriate factors, including the best interests of the child or children."



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From the Teacher's Perspective:

Mock Trial Program “Priceless” for Everyone Involved

by Judith Washburn, Mock Trial Teacher-Coach, Greensburg-Salem Senior High School

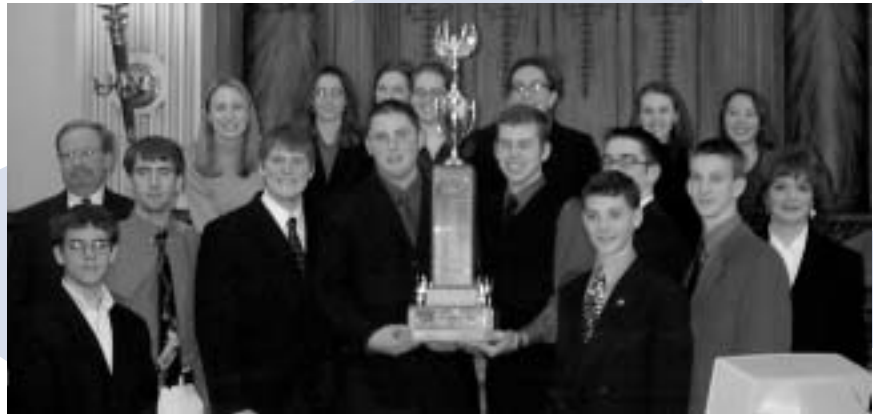
Greensburg-Salem’s Mock Trial team has enjoyed some success over the past few years—county, regional and state championship trophies grace our school’s showcases, each one representing six months or more of hard work and commitment.

Judge Richard McCormick, Jr., our attorney advisor, has devoted hours and hours *and hours* of expert coaching, and through the years I know I have learned as much from him as the students have (maybe more!).

It is fascinating to watch the kids acquire the skills necessary to function in a courtroom. Learning to analyze a case for its strengths and weaknesses, competing within the parameters of the rules of evidence, and fighting to get in or keep out key pieces of information provide both challenge and discipline for our young legal eagles. Of course the whole experience completely ruins their enjoyment of courtroom drama on TV!

Mock Trial kids are truly a special breed of teenagers; it’s almost as if the law gets into their blood. When I asked our last group of students who would be able to make a commitment to the Mock Trial effort this year one boy wrote, “I’m a slave to Mock Trial and proud of it!”

He wasn’t kidding; our kids have given up part-time jobs, participation on sports teams and much of their social lives to come to Mock Trial practice. Anyone who has misgivings about the future



▲ The 2002 Greensburg-Salem Mock Trial team, including Attorney Advisor Judge Richard E. McCormick, Jr. (second row, far left) and Teacher-Coach Judith Washburn (far right).

should come and watch the kids from our county competitions prepare and compete. Their dedication and discipline is formidable.

In addition, they are willing to make any sacrifice for the team. This year we were faced with making several major substitutions in witness and attorney positions—I was truly amazed at how the kids rose to the extra challenge of learning new roles at the last minute and how other students were willing to stand aside for someone else to take over when necessary; more often than not we functioned more like a family than a team.

Mock Trial is good for kids; it helps them mature intellectually and emotionally, it helps them to gain confidence—the kind of confidence that is won from being conscientious and prepared and, at the same time, able to think on your feet.

I would like to thank the WBA for providing this priceless opportunity for the youth of our county; I’m sure you have no idea how meaning-

ful the experience has become in many of our high schools.

Thanks to your efforts, there are young men and women who are reaching higher and farther than they ever knew they could, and there are teachers and attorney advisors who teach, coach, then watch with pride as these young people strive to master the discipline, the ethics and the spirit of the law.

This year the Greensburg-Salem Mock Trial team carried off the county championship with team members Andrew Nogasky, Cara Spencer, Amy Ewing, Amanda James, Steve DeMatteo, Haley Saba, Emily Frenchek, Will Meyer, John Leancu and Brandon Giles.

We traveled to Hollidaysburg in March to defeat Ringgold High School twice for the Region III championship and the honor of competing with the top twelve teams in the state at Harrisburg.

Needless to say we have high hopes and high standards for next year.

To-Wit: My Favorite Mistakes

by S. Sponte, Esq.

Okay, okay, I can hear you snickering already. Yes, I have made mistakes in my career, some of them whoppers, and I'm not afraid to admit it. Why should I be? I mean, isn't that what pseudonyms are for?

The truth is, of course, that we have all made mistakes, every one of us. For some, it was a missed statute of limitations, for others, a failure to include the right defendant, and yet for others, it was going to law school.

There was a time I was afraid of my mistakes, paralyzed by them, just like some of you may yet be. And it wasn't so much the mistakes I actually made that had me catatonic as it was the ones I knew lay lurking just up the road, hiding, waiting to pounce.

But that was in my earlier years, when the practice of law was yet foreign to me, when its unfamiliar and intricate byways invariably led me blindly into many a dangerous labyrinth. And it's in those murky environs I might yet languish but for the droplets of blood I unwillingly dripped onto the ground behind me as I entered.

If the years since then have taught me anything, it's that mistakes are pandemic in our business and, globally speaking, simply unavoidable. I have dealt with some of the best lawyers in the state, and sooner or later, they all make mistakes, not the least of which is litigating with me. But I no longer fret over them, I no longer constantly worry about them, I no longer let them control my life.

I would not be honest with you if I didn't tell you this liberating

attitude didn't come easily and at a price. But come it did, the by-product of a secret I have learned along the way. It's a secret

I'm perfectly willing to share with you gratis, and why wouldn't I? After all, aren't you my colleagues, my friends, the self same people who would assuredly try to lift my scalp in trial at the very first opportunity?

Here's how I do it. I've come to realize that, depending on what kind of client we are serving, almost every mistake has a silver lining, almost every mistake has a quality about it that ameliorates the pain and suffering it might otherwise engender. The trick is to learn to



continued on page 12

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To-Wit: My Favorite Mistakes *continued from page 11*

recognize it and turn it to your advantage.

For instance, I still recall quite vividly the very first case I ever tried before a jury. I had been practicing only a few months when a senior partner walked into my office, plunked down a plain vanilla auto accident file and told me I'd be trying the case next week. In my haste to get ready, a ritual that included an awful lot of impromptu sponge baths, I neglected to call the only independent witness who could corroborate my client's account that the defendant had run through a stop sign and smashed into the side of his car.

The defendant's story was otherwise, and at the time of trial, the jury chose to believe his version over my plaintiff's, and the case was lost. For a long while, I blamed myself, certain that if I had called the witness, my client would have prevailed. The truth was the client had turned down an eminently fair settlement offer of \$7,500.00, insisting instead that he had filed a complaint seeking \$10,000.00, at the time the jurisdictional minimum for a jury trial, and by God that's what he wanted. Now I ask you, should anyone so selfish and irrational, so callously willing to put his lawyer

through such misery, be entitled to the fruits of his calumny? I think not.

See how it works? If you represent the greedy, the overreacher, the idiot, your mistakes only assist them in getting their just desserts. So stop fretting.

But what if your clients are really nice people? Well, a few years later, I represented a husband and wife in another auto case. I don't

know how it happened, but I just missed the statute of limitations. Well, yes, I know how it happened, I wasn't paying attention. There, I've said it, happy now?

When I realized it, I decided that the only proper thing to do was to relocate my practice to Argentina. But as I didn't speak Spanish, that was not a pragmatic solution. So instead I called the clients in and give them the bad news straight up.

"Your case is worth about \$5,000.00," I told them, and they agreed. "After fees and expenses, you would have had about \$3,500.00 left for yourselves," I told them, and they agreed.

"So I am prepared to pay you that amount on account of my mistake," I told them, and they balked. They told me they were reluctant to take any money from me for fear I would no longer represent them.

I was so relieved at their response I didn't bother to ask them why the hell they would want to continue to be represented by a lawyer who

I have made mistakes in my career, and I'm not afraid to admit it. Why should I be? Isn't that what pseudonyms are for?

had so grandly butchered their case. I also was greatly relieved to find out that my angst over this whole affair was for naught. These folks, it turns out, were decent, caring human beings whose primary concern was for the people they cared about, not for the filthy lucre their misfortune might secure them. Yes, I know they were "clients," but there you have it.

If you've been paying attention, you've learned that if we represent selfish louts, our mistakes only serve to get them what they deserve, and if we represent really nice folk, people who are in touch with their feelings, they haven't got the heart to eviscerate us no matter how richly we deserve it.

So what are you fretting about? Don't worry, be happy. Learn to accept your mistakes and you'll feel ever so much better. I caution you though that this technique, no matter how skillfully utilized, only works for the lawyer. Your client may still be devastated by your mistakes, their lives still left in shambles. But hey, that's their problem, isn't it?

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Candid Camera:

2002 St. Paddy's Party



◀ Now cover your left eye and read me the names of the judges in the bottom row.

This happens to ▶
John every time
Diane gets near.



▶ After so many beers,
Jim just dreams of
emptying his bladder.



◀ If you give me the
lead, I swear I'll make
it worth your while.



▲ John sadly watches time count down on his presidency and has another drink.

New Member Sketches

Robert Louis Frey, Jr., has been admitted as an associate member of the WBA. A graduate of Jeannette Senior High School, Robert did his undergraduate work at Allegheny College and St. Vincent College and earned his juris doctor degree from Widener University School of Law. He currently maintains an office in Johnstown and lives in Jeannette.

Donna E. Heldman has joined the WBA as a participating member. A graduate of Burrell High School and Grove City College, Donna earned a master's degree from the Katz Graduate School of Business at the University of Pittsburgh and her juris doctor degree from the Duquesne University School of Law. Donna is a partner with McCalister & Heldman in New Kensington, and resides in Lower Burrell.

Emily Karen Painter was admitted to the WBA as a participating member. A graduate of Franklin Regional High School, Edinboro University of Pennsylvania and the Duquesne University School of Law, Emily is an associate with Geary and Loperfito, LLC, in Vandergrift, and lives in Apollo.



January/February 2002 Trial Terms

Jury Trial Verdicts

by Rachel Yantos, Esq.

There were 90 cases scheduled for trial during the January/February 2002 civil trial terms. The results are as follows: 30 cases settled, 32 were continued, one was discontinued, one was removed from the list, bankruptcy stays were entered in two, four moved to arbitration, four were tried non-jury, one was transferred to non-jury, eight verdicts were entered and seven were held to the next list. A variety of causes were tried this term.

JAY SHEPLER

V.

LATROBE AREA HOSPITAL, INC.

NO. 5419 OF 1996

*Cause of Action: Professional Negligence—
Medical Malpractice*

The plaintiff brought this medical malpractice action as a result of the alleged misdiagnosis of plaintiff's condition of testicular torsion by the defendant hospital, acting through its emergency department physician. On August 24, 1995, plaintiff presented himself to the emergency department complaining of right testicular pain and swelling. The defendant diagnosed the condition as epididymo-orchitis. Plaintiff contended that the failure to immediately render treatment and resolve the testicular torsion resulted in the subsequent surgical removal of plaintiff's right testicle. Plaintiff also claimed emotional damages associated with the loss.

Defendant averred that appropriate testing and diagnostic procedures were performed and that an appropriate diagnosis was made. Defendant also contended that plaintiff was referred to his family physician and a urologist for further care and treatment, which was rendered to plaintiff prior to the surgery.

Plaintiff's Counsel: Arthur L. Schwarzwaelder, John A. Caputo & Associates, Pgh.; Lawrence D. Kerr, Berk, Whitehead, Kerr, Feliciani & Turin, P.C., Gbg.

Defendant's Counsel: Donald H. Smith, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Pgh.

Plaintiff's Experts: Terrence R. Malloy, M.D., Michael Jastremski, M.D., and Donna Coufal, Ph.D.

Defendant's Experts: Alan K. Hodgdon, M.D., and Lawson F. Bernstein, M.D.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for plaintiff in the amount of \$250,000.

**GILBERT STEVENSON AND
GLADYS STEVENSON, HIS WIFE**
V.

FREDERICK MCWILLIAMS, M.D.
NO. 3827 OF 1996

*Cause of Action: Professional Negligence—
Medical Malpractice—Loss of Consortium*

Husband-plaintiff brought this medical malpractice action against defendant-physician for prescribing the drug Demadex, a diuretic, at an allegedly high and dangerous level. After six days of taking the medication as prescribed, plaintiff alleged that he was hospitalized due to severe dehydration from the drug. Plaintiff contended that defendant's failure to diagnose the dehydration from excessive use of the drug led to the defendant's erroneous removal of plaintiff's gall bladder, severe disorientation and cerebral damage from a condition known as encephalopathy, as well as blood clotting and damage to the heart, bladder and kidneys. His wife claimed loss of consortium.

Defendant denied that the drug was prescribed in a dangerous manner. The defendant averred that any dosage taken by the plaintiff had no effect on his overall condition. Defendant asserted that any injuries or damages claimed by plaintiff were caused by the plaintiff's underlying medical condition.

Plaintiff's Counsel: Michael Hahalyak, Murrysville
Defendant's Counsel: Robert W. Murdoch, Zimmer Kunz P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for defendant. The jury found that defendant's negligence was not a substantial factor in bringing about the plaintiff's harm.

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**BARBARA A. STURM,
INDIVIDUALLY AND AS
ADMINISTRATRIX OF THE
ESTATE OF BRUCE E. STURM,
DECEASED**

**V.
SURINDER S. BAJWA, M.D.
NO. 2352 OF 1998**

*Cause of Action: Professional
Negligence—Medical Malpractice—
Survival and Wrongful Death—
Loss of Consortium*

In this professional negligence action, plaintiff alleged that the defendant-physician failed to properly diagnose and treat the alleged true condition of plaintiff's decedent of pulmonary embolus during two hospitalizations in March and October of 1996 and at office visits in between. Plaintiff alleged that defendant failed to include pulmonary embolus in the differential diagnosis and rule it out as the cause of decedent's symptoms.

Immediately following his discharge from the second hospitalization in October of 1996, the decedent developed a massive pulmonary emboli, which blocked blood flow in both lungs and resulted in his death.

Defendant denied the existence of clinical signs or symptoms suggesting testing and diagnosis of pulmonary emboli. Defendant maintained that his conduct did not cause, contribute to or increase the likelihood of the claimed injuries or damages.

Plaintiffs' Counsel: Robert L. Potter, Harry F. Kunselman, Strassburger McKenna Gutnick & Potter, Pgh.

Defendant's Counsel: Bernard R. Rizza, Gaca Matis Baum & Rizza, Pgh.

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

Result: Verdict for defendant.

**GREEN VALLEY DRY
CLEANERS, INC., DAVID
ROSENBLATT AND
GAIL ROSENBLATT**

**V.
WESTMORELAND COUNTY
INDUSTRIAL DEVELOPMENT
CORPORATION
NO. 5746 OF 1998**

Cause of Action: Breach of Contract

In October of 1997, plaintiff purchased from the defendant a parcel of real estate located in the Westmoreland County Industrial Park IV Plan of Lots in North Huntingdon upon which he could erect a building for his wholesale dry cleaning business. Shortly after closing on the property, plaintiffs contended that there were latent conditions on the property, which the defendant should have known, caused by subsurface mining. Plaintiffs contended that the defendant did not disclose the

continued on page 16

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Jury Trial Verdicts *continued from page 15*

defect, thereby causing plaintiffs to incur extraordinary costs when erecting the building.

As no purchase agreement was executed, the defendant contended that disclosure of subsurface conditions of the property was not a term of the contract. Rather, the parties proceeded upon an executed option agreement, which permitted the plaintiffs to make test borings and soil analyses on the property and cancel the agreement without incurring any financial loss if the tests revealed that they could not proceed with their construction plans. The defendant contended that plaintiffs conducted multiple tests regarding the subsurface conditions of the lot which revealed the presence of coal and carbonaceous material and also relied upon the expertise of the architect hired by the plaintiffs prior to closing on the property.

The special interrogatories submitted to the jury included whether the parties agreed that the defendant-seller would have the

duty of revealing subsurface conditions to the plaintiff-buyer and, if so, whether the defendant-seller breached this duty.

Plaintiffs' Counsel: S. Link Christin, Meyer, Unkovic & Scott, LLP, Pgh.

Defendant's Counsel: Thomas P. Pellis, Aimee R. Jim, Meyer, Darragh, Buckler, Bebenek & Eck, PLLC, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict for plaintiff in the amount of \$603,500.

**SALLY DAVIS
V.
DAVID JOHN MOSES
NO. 935 OF 1999**

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

This action arose out of a motor vehicle accident that occurred on July 7, 1998 when plaintiff was traveling west on Seventh Street at its intersection with Constitution Boulevard in New Kensington. The

defendant was operating his vehicle in a northerly direction on Constitution Boulevard. Plaintiff contended that she attempted to travel through the intersection when the defendant failed to stop/yield to plaintiff's vehicle, causing the front of defendant's vehicle to hit the plaintiff's vehicle broadside. Plaintiff averred the selection of the full tort option and claimed soft tissue injuries.

In new matter, defendant invoked the sudden emergency doctrine as a bar to plaintiff's recovery. Defendant also asserted the affirmative defense of plaintiff's contributory/comparative negligence and the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL).

Plaintiff's Counsel: Robert Paul Vincler, Pgh.

Defendant's Counsel: Susan D. O'Connell, Law Office of Marianne C. Mnich, Pgh.

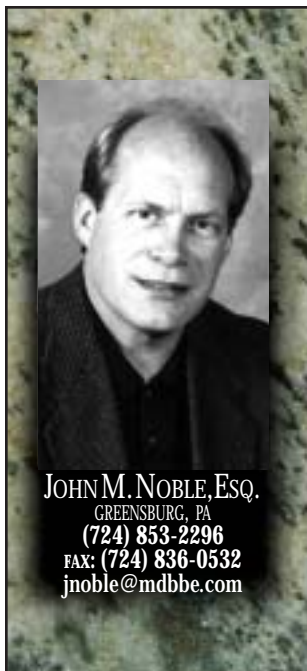
Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for defendant. Jury found no negligence on behalf of defendant.

**MICHAEL KORYWCHAK
V.
LINDA LEVRIO
NO. 1575 OF 2000**

Cause of Action: Negligence—Motor Vehicle Accident

Plaintiff's claim arose out of a motor vehicle accident that occurred on August 11, 1998 in Derry Township at the intersection of Route 217 and the entrance to Choice Gas. Plaintiff, heading south on Route 217, accessed his turn signal and brought his vehicle to a stop to allow traffic to clear before turning east into the entrance to Choice



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Gas. The complaint alleged that the defendant, traveling behind the plaintiff, failed to stop and struck the rear of plaintiff's vehicle. Plaintiff selected full tort and claimed soft tissue injuries.

The defendant asserted that she acted reasonably and prudently and with due care. In new matter, defendant invoked the defenses of comparative/contributory negligence and the provisions of the MVFRL.

Plaintiff's Counsel: Ned J. Nakles, Jr., Nakles and Nakles, Latrobe

Defendant's Counsel: Michael C. Maselli, Law Office of Marianne C. Mnich, Pgh.

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

Result: Verdict for plaintiff in the amount of \$12,500.

LLOYD MARKER

V.

DAIMLERCHRYSLER CORPORATION NO. 5161 OF 1999

*Cause of Action: Pennsylvania Automobile
Lemon Law—Arbitration Appeal*

On March 15, 1996, plaintiff purchased a new 1996 Dodge Stratus, which was manufactured by the defendant. In this Lemon Law action, plaintiff averred that he delivered the nonconforming vehicle to the authorized service and repair facility of the defendant on numerous occasions. After a reasonable number of attempts, defendant was unable to repair the nonconformities, which ranged from the vehicle's alleged defective transmission, brakes and rotors to its power steering. Plaintiff alleged that the vehicle could not be utilized for the purposes intended by plaintiff at the time of acquisition.

Defendant denied that the vehicle exhibited defects and nonconformities. Defendant averred, inter alia, that plaintiff's claims were barred and/or limited by the Automobile Lemon Law, by his neglect, misuse, abuse and/or alteration of the vehicle and that the nonconformity did not substantially impair the use, value or safety of the vehicle.

Plaintiff's Counsel: Michael Power, Power & Associates, P.C., Glen Mills

Defendant's Counsel: Patricia A. Monahan, Marshall, Dennehey, Warner, Coleman & Goggin, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Molded verdict for plaintiff for a total of \$27,259.20—\$19,957.70 compensatory damages and \$7,301.50 counsel fees.

MARY MAGGIORE

V.

RICK KATREEB NO. 4741 OF 1999

*Cause of Action: Negligence—
Motor Vehicle Accident—Summary Jury Trial*

This motor vehicle accident occurred at the intersection of Route 981 and Route 30 in Unity Township on August 27, 1997. Plaintiff was a passenger in a vehicle operated by her husband, who was traveling on the exit ramp of Route 30 leading to Route 981. The complaint alleged that plaintiff's vehicle was stopped with its turn signal activated while waiting for traffic to clear before proceeding onto Route 981. The defendant, whose vehicle was behind the plaintiff's, failed to stop and caused a collision with the rear of plaintiff's vehicle. Plaintiff's claim consisted primarily of soft tissue injuries.

Defendants raised the affirmative defenses of contributory/comparative negligence and assumption of the risk, the statute of limitations and/or plaintiff's failure to prosecute the action, as well as the provisions of the MVFRL and its amendments known as Act 6.

Plaintiff's Counsel: Ned J. Nakles, Jr., Nakles and Nakles, Latrobe

Defendants' Counsel: Maria Spina Altobelli, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman

Result: Verdict for plaintiff in the amount of \$4,000.

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2002 bench/bar

conference
of the westmoreland bar association

WBA Receives State Award at CCBL



◀ Pictured from left to right: PBA President Reg Belden, Diane Krivoniak, Dick Galloway, Jim Silvis, WBA President John Campfield, CCBL President William Scott, Milt Munk, Dan Joseph, Becky Brammell, Aaron Kress and Jim Wells.

requires the passing of a written examination, substantial experience and continuing education requirements and letters of recommendation from peer attorneys.

Chris is with the Greensburg law firm of DeBernardo, Antoniono, McCabe & Davis, P.C.

On March 1, 2002, the Westmoreland Bar Association received recognition for three of its programs. The award was presented by the Pennsylvania Bar Association to the leadership of the bar at the Conference of County Bar Leaders held in State College. Recognition was given for the following programs:

TOWN MEETING ON THE FUTURE OF THE JUVENILE JUSTICE SYSTEM

A town meeting was held Tuesday, October 30, 2001, at the University of Pittsburgh at Greensburg to look at the future of the juvenile justice system. Over 250 members of the community attended. Citizens and stakeholders spoke about the present system and the vision of developing a community-based system that worked for children, families, and the community.

FOUNDING FELLOWS

The Westmoreland Bar Foundation began a Founding Fellows program to raise funds, which would make the Mock Trial Scholarship self-sustaining. This program generated enough money to ensure the future of Mock Trial Scholarships. Additional funds will be used to grow the foundation's community outreach programs.

RTA UNAUTHORIZED PRACTICE OF LAW

This court case originating in Westmoreland County, challenged the use of legal representation in tax assessment appeal cases. The appellate courts upheld the Common Pleas decision, which allowed for only proper legal representation in matters brought before the court.

DeDiana Earns Elder Law Certification



▲ L. Christian DeDiana

The National Elder Law Foundation recently awarded certification as an Elder Law Attorney to L. Christian DeDiana, chairman of the

WBA's Orphans' Court Committee.

The National Elder Law Foundation is the only organization approved by the ABA and the Pennsylvania Supreme Court to offer certification in the area of elder law. The certification process

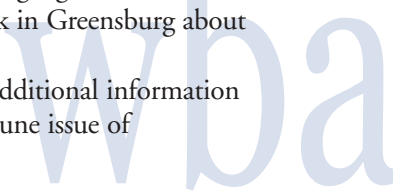
Mark Your Calendars for Steelers Football

The WBA is again hosting a football/CLE bus trip to a Steelers game. This year's trip will be to Cincinnati, Ohio, on October 13 (Columbus Day holiday weekend).

The itinerary will be similar to last year's Buffalo trip:

- Depart Greensburg Saturday, October 12 at 9 a.m.
- Arrive in Cincinnati mid-afternoon.
- Free time to see attractions including the Cincinnati Museum Center or the Cincinnati Zoo and Botanical Garden. Or take a 20-minute shuttle to the Argosy Casino, the "most popular riverboat casino in the world!"
- Overnight stay in Cincinnati.
- Tailgate party Sunday morning before heading over to the Steelers/Bengal game.
- Arrive back in Greensburg about 11 p.m.

Look for additional information in the May-June issue of *the sidebar*.



Actions of the Board

MARCH 19, 2002

- Discussed the Bar's first attempt to broadcast fax information to members concerning the frivolous lawsuit legislation. Agreed that e-mail is more economical and quicker. E-mail addresses of bar members are being updated so those members with an e-mail address can receive the information via the Internet. Other members will receive this information by fax or mail.
- Moved to award the Committee of the Year to LCL Committee for the attention they have given to wellness issues through programming and outreach.
- Voted to award "Outstanding YL" to Lisa Galloway Monzo citing her recent involvement in the Futures Commission town meeting as well as her ongoing involvement with PBA PEACE program and position as Zone 6 House of Delegates representative.
- Voted to support the spirit of the "filing fee" legislation which would add \$3-\$5 to court filings which would fund pro bono programs throughout the commonwealth. Included with this support is a strong recommendation to the writers of the legislation that the money generated from this legislation be returned to the county where it originated.
- Agreed to purchase conference furniture for use in a soon-to-be-constructed lawyer's conference room to be located in the rear of the Law Library
- Heard news that the Westmoreland Bar Association will be the first recipient of the Innovation Award from the Westmoreland County Mental Health Association because of the wellness programming

- offered to our members and for the work done by the LCL committee.
- Agreed to submit a grant proposal to the Pennsylvania Grant Trust for a LCD projector and laptop computer for use with CLE seminars.
- Heard request from the Westmoreland Trust to have access to our roof during the renovations to the Palace Theatre.
- Heard request from Real Estate Committee to begin public relations campaign citing the need for attorneys in real estate transactions. Agreed that UPL Chair Aaron Kress will meet with committee chairs to discuss project.

- Heard report on 2002 Bench/Bar conference including change of golf venue due to booking error by Wisp.
- Heard report on building renovations. Agreed to move forward with projects within three months. Agreed to review existing strategic plan and integrate it into the newest plan.
- Decided to schedule hands-on computer training for InCite program at community college and to do so before May.
- Voted to allow purchase of a digital video camera for use with BarFlies rehearsal and production.

Tim Geary Attends ABA Bar Leadership Institute



▲ *WBA President Timothy J. Geary (left) joined some 290 other emerging leaders of lawyer organizations from across the country at the American Bar Association's Bar Leadership Institute (BLI) March 7-9, 2002. The BLI is held annually in Chicago for incoming officials of local and state bars, special focus lawyer organizations and bar foundations. The seminar provides the opportunity to confer with ABA officials, bar leader colleagues, executive staff and other experts on the operation of such associations. Topics covered included bar organization and management, communications techniques and planning for the year as president. Also shown in photo are ABA President Robert E. Hirshon of Portland, Maine, (center) and Tim's wife, Gillen Geary (right).*

bookmark What Have You Been Reading?

by Judge Daniel J. Ackerman

With the Internet and seventy-some channels on television, it is an interesting fact that book sales are booming and people are reading more than ever. The editors of *the sidebar* thought it would be interesting to see what their subscribers have been reading besides the advance sheets.

As I understand the assignment, the editors want lawyers and judges to fill this space with a list of books they have read which have left a mark on their memory. They do not necessarily have to be the best books they have read, but those which, for one reason or another, their thoughts return to from time to time and which, if they had the luxury of time, they would read again.

My selections contain no books by or about lawyers or judges; reading for pleasure should take you to other times and places. My list is weighted toward history, but there are a few selections which you may not have guessed. They appear in no particular order.



▲
Judge Daniel
J. Ackerman

A STILLNESS AT APPOMATTOX ♦ by Bruce Catton ♦
A Pulitzer Prize-winning history of the last year of the Civil War, and one that started my reading on the subject.

ZEN AND THE ART OF MOTORCYCLE MAINTENANCE ♦ by Robert M. Pirsig ♦
Philosophy and self-discovery in a technological age. It is one of two books that I have read twice—I'm still not sure I understand it. (The other was Bruce Catton's "Grant Takes Command.")

THE IMITATION OF CHRIST ♦ by Thomas d'Kempis ♦
Spiritual advice from a 15th century monk. This little book, at one time, was one of the most widely read books of the western world.

MORNINGS ON HORSEBACK ♦ by David McCullough ♦
The extraordinary early life of Theodore Roosevelt by my favorite historian.

THE GREAT TRAIN ROBBERY ♦ by Michael Crichton ♦
A novel of adventure and suspense wonderfully set in Victorian London.

JOURNEY TO THE HIGH SOUTHWEST ♦ by Robert L. Casey ♦
A travel guide and natural history that creates the urge to get red dust on your shoes.

ANDERSONVILLE ♦ by MacKinlay Kantor ♦
A powerful novel of life in the notorious Confederate POW camp.

A SHORT HISTORY OF A SMALL PLACE ♦ by T. R. Pearson ♦
Books that make me laugh are essential. This was the first of many humorous and charming novels about life in the rural South written by Pearson.

EVEN COWGIRLS GET THE BLUES ♦ by Tom Robbins ♦
Funny. Bizarre. The story of a beautiful woman with extremely large thumbs whose hobby is hitchhiking.

THE 900 DAYS—THE SIEGE OF LENINGRAD ♦ by Harrison E. Salsbury ♦
A stunning account of suffering and determination during the second World War.

AMERICAN CAESAR ♦ by William Manchester ♦
A biography of America's most multifaceted, complex and paradoxical military man, Douglas MacArthur.

UNDAUNTED COURAGE ♦ by Stephen E. Ambrose ♦
The wonderful account of one of the greatest adventures of all time, the Lewis and Clark expedition.

SEABISCUIT ♦ by Laura Hellenbrand ♦
The story of a racehorse that became a phenomenon in the 1930s. The best book I have read in the past year.

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Anecdote

Criminal of the Century

by Judge Irving L. Bloom

Walter Lee Johnson was absolutely the most incompetent criminal I represented in my 33 years of criminal law practice. He was born in 1912 and committed his first burglary in 1929. As Walter Lee used to say, "I came in with the depression." In between failed burglaries, Walter Lee would occasionally work for a living. He tried not to make a habit of that.

In his criminal endeavors he was caught many more times than he got away with burglary. One particular time he was very proud of was sometime in the mid 1930s when he was prosecuted by the late Rabe F. Marsh, Jr., who at the time was an assistant district attorney and

later became Chief Judge of the Western District of Federal Court in Pittsburgh.

In the 35 years or so following his prosecution by the late Judge Marsh, Walter Lee committed minor league burglaries and was never very successful at it. He was always getting caught and would be sentenced to jail occasionally, probation occasionally and every once in a while might even get acquitted.

In 1971 he and two young associates got in their car one night and drove to Vandergrift where they entered the premises of Donghia's Clothing Store and removed 61 high-class top-shelf suits. The burglary was discovered almost immediately but the police didn't

worry because they knew the fence that Walter Lee often used. They staked out the fence's house in New Kensington.

About 6:30 in the morning as the car containing Walter Lee and his two young associates pulled up, the police yelled, "Police! You're under arrest!"

Well, the two associates, being young and vigorous, ran away quickly but the police didn't worry

about that—they knew who they were and would get them later. Poor Walter Lee, being up in years and being plagued with arthritis, couldn't run very fast and he was immediately taken into custody.

He was taken directly to the Westmoreland County Jail.

The next morning, he called my office and said, "Irving, you have to come down and represent me." He told me what he had been charged with. I then asked him if the most important witness had arrived.

He asked, "Who's that?"

I told him that was Mr. Green—in the form of currency.

He said, "Oh, yes, your reputation has preceded you and I am prepared to furnish you with Mr. Green."

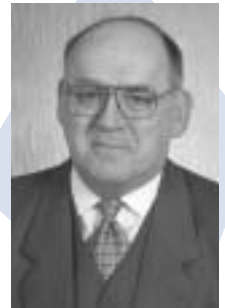
I reviewed his file before I went in to see him and discovered that though he had taken 61 suits, there were only 31 found in the trunk of his car when he was arrested. I went to the jail and conferred with Walter Lee Johnson.

After getting the retainer out of the way I immediately asked him, "Walter Lee, you took 61 suits and there were only 31 in the car when you were arrested."

I then asked, "Walter Lee, what happened to those other 30 suits?"

He didn't answer and just smiled a big broad smile.

I then asked him, "Walter Lee, since you won't tell me where those



▲ Judge Irving L. Bloom

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suits are, let me ask you this—do you happen to have left in stock a 42 regular with a vest in a muted pinstripe?”

Walter Lee responded in that angelic way he had by saying, “Does you want a top coat to match?”

I told him I took my fee only in the form of cash and currency and not in merchandise. This is not a barter system.

When we were forced to enter a plea of guilty for Walter Lee’s depredations, the case came up for hearing in front of the late President Judge David H. Weiss. The prosecuting assistant DA at the time was Rabe F. Marsh III.

Walter Lee beamed as he said, “I have now been prosecuted by two generations of assistant DA’s from the same family.”

When the judge was about to pass sentence, he stated, “Does the defendant have anything to say before I pass sentence?”

Walter Lee replied, “Yes I do, your Honor. Every time I’m up here it’s always the same thing—jail, jail, jail. Why don’t you try a little probation for a change?”

Judge Weiss was impressed enough to say, “You know what I’ll do? I’ll sentence you to just weekends this time.” Walter Lee was very happy with that.

Three weeks later Walter Lee called me and asked if I could get him out of his weekend for one time since he had obtained employment.

I said, “Walter Lee, who are you gonna knock off this time?”

He told me it was real work this time and he had changed. I knew better.

That weekend the premises of Hal’s Fashion Corner, a low priced clothing store on Main Street in Greensburg, was entered and \$15,000 worth of cheap suits were taken from the place.

Walter Lee was never heard of again. He is still carried on the books of the county jail as a weekender who hasn’t shown up lately—namely, for the last 30 years. I hope, like Motel 6 does, they leave the light on for him.

LAW SPEAK

No two cases are exactly alike. A young attorney found two opinions in the New York Reports where the facts seemed identical although the law was in conflict, but an older and more experienced attorney pointed out to him that the names of the parties were different.

—Cuthbert W.
Pound, 5 N.Y.S.
B. Bull. 267 (1933)

Lawyers’ Exchange*

(*Free to all members of the WBA)

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Substance Abuse: A High Wire Act

by Judge Irving L. Bloom

Practicing law while coping with addiction is a high wire act. One misstep can send a lawyer's professional and personal life tumbling. Help is out there.

QUESTIONS AND ANSWERS

1. How widespread is alcoholism and substance abuse among legal professionals?

Accurate statistics are hard to get. However, the ABA's commission on lawyer assistance programs has figured that 56,000 ABA members will have a lifetime alcohol dependency disorder; 30,000 will have a lifetime drug disorder other than alcoholism; and over 100,000 will have a lifetime substance abuse disorder.

2. What is the difference between substance abuse and substance dependency?

Abuse is the continued voluntary use of alcohol or other drugs despite adverse consequences. Dependency is a state of impaired control—a person feels compelled to drink or use drugs and cannot predict how much or how long he or she will do so. The distinction must be made because of the type of treatment needed. Abuse can be addressed with education of traditional methods of deterrence like divorce, jail and loss of a license. Addictions require specialized treatment for what has become known as a brain-based chemical disorder.

3. What aspects of practicing law might lead an attorney to turn to alcohol or drugs for relief?

Everything. The adversarial nature of the profession; the constant pressure of deadlines and decisions; complexity of the law and legal procedures; competition for business; demanding clients; opposing lawyers; and difficult judges. That also includes the public's love/hate relationship with lawyers and the difficulties and discrimination women and minority lawyers face. All of these factors combined with long hours away from family and friends might lead to self-medication with alcohol or drugs.

4. How does dependency adversely affect the lawyer's job performance and family life?

Sooner rather than later there is mental and physical impairment affecting their ability to analyze, conduct research and discovery, and meet deadlines. Files are ignored, negotiations mishandled and trust accounts "invaded" for emergency loans. Statutes of limitations may expire. All this might well result in

malpractice suits and disciplinary actions. Separation and divorce might well occur when wives and husbands tire of broken promises to quit drinking and can no longer tolerate the emotional and physical abuse.

5. What are the telltale signs that a colleague may be struggling with abuse or addiction?

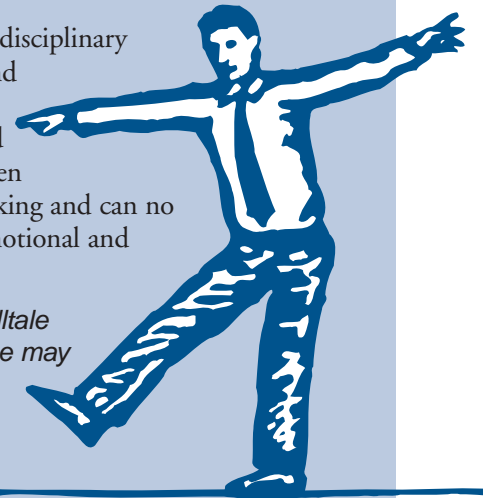
Some signs are excessive or inappropriate drinking or drug use; repeatedly coming to work hung over or under the influence.; drinking or using drugs during the work day, and; attending hearings or proceedings under the influence.

Other than that, we have to look at our fellow lawyers for signs of impairment in their personal and professional life. Does the person show up late for work; does the person take long lunches and sometimes not come back; does the person arrive late and then leave in a few hours; is the person's work getting done properly and on time? All these factors indicate something is wrong. The problem could be substance abuse or addiction or it could be depression, bipolar disorder, or compulsive gambling.

6. What steps should a concerned colleague take to help?

Approaching a lawyer having a problem requires special care. The goal should be to stop protecting the attorney from the consequences of drinking or drug use. Colleagues should help the person recognize that he or she has a problem and have him or her agree to seek help. They should encourage their coworker to get a professional evaluation by an addiction specialist who can make a proper diagnosis and treatment plan. The Lawyers Concerned for Lawyers have available professional assistance in the form of a free psychiatric workup that will enable a possibly impaired colleague at no charge to them determine the nature and extent of the problem and what assistance might well be required.

For more information about seeking help for yourself or someone close to you who you think has a problem, call the **Lawyers Concerned for Lawyers of Pennsylvania Confidential Helpline: 1-888-999-1941.**



CALENDAR of Events

MAY

- 8 Membership, Noon
- 10 *Free (Lunch) Friday:*
Quick Tips for Windows &
Microsoft Word, Noon
- 16 Judge Loughran's Retirement
Gala, Seton Hill, 6 pm.
- 21 Family Law, Noon
Board Meeting, 4 p.m.
- 22 Chamber BASH, 5 to 7 p.m.
- 23 *Family Law Lunch 'n Learn*
CLE: Equitable Distribution,
Noon
- 27 Courthouse closed in
observance of Memorial Day

JUNE

- 7 *Free (Lunch) Friday:*
Quick Tips for Excel, Noon
- 13-15 Bench/Bar Conference,
The Wisp
- 14 Courthouse closed in
observance of Flag Day

TOP TEN

Top Ten Most Troublesome Remarks

1. "Remember that case you did for me 17 years ago?"
2. "You represent my wife, don't you?"
3. "My doctor says I'm going to be just fine."
4. "No, we just shook hands on it."
5. "I've been in the adjusting business for a long time, and I've never seen anyone as fair as you."
6. "I'm hiring, and your secretary listed you as a reference."
7. "Yeah, limited tort option, I think so."
8. "I just want to teach my neighbor a lesson is all."
9. "I can't really afford a lawyer, but let me just ask you this ..."
10. "It's only a small construction case, shouldn't take long at all."



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