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▲ Rocky Gap Lodge in Cumberland, Md., is the site of the 18th Annual Bench/Bar Conference to be held June 10–12, 2004.

ENCORE ENTERTAINMENT

This year's Friday night entertainment will again feature Casino Night immediately following dinner and the BarFlies production of "Law Firm Story." Enjoy poker, craps, and other games of chance. Use your winnings to take a chance on auction prizes.

LUNCH AT UNCLE TUCKER'S BREW PUB

Back by popular demand, free lunch Friday, which includes pizza and salad at the historic Uncle Tucker's Pizza Cellar/Microbrewery.

PUB CRAWL

Catch the free shuttle which will make stops at four of Cumberland's local drinking holes on Thursday and Friday evenings.

FIRE PIT

Enjoy an evening under the stars at the resort's lakeside campfire on both Thursday and Friday night.

YL VOLLEYBALL MATCHES

Three sand volleyball courts are available for "pick-up" teams. YL will organize matches beginning Friday at 11 a.m.

CLASSIC FILM CLE

Film critics Judge Bloom and John Scales will moderate discussion on legal issues for the Jimmy Stewart classic "Anatomy of A Murder." 2.5 FREE CLE credits offered Thursday afternoon.

SATURDAY MORNING CLE*

Hollywood Squares comes to the Westmoreland Bar. "Lawlywood" will feature nine of our zaniest bar members who will attempt to trip up audience participants on legal questions.

** This replaces the judges' round table.*

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President's Message

What Goes Around Comes Around—Maybe

by Aaron M. Kress, Esq.

When I began practicing law during the most recent Ice Age, I was the product of a clerkship wherein I was taught to do title searches. If some of you are not familiar with the words “clerkship” or “title searches,” please let me know and that might be the subject of another of my monologues.



As a result, I was able to take some financial comfort in the fact that most of the local banks would dole out to me and other lawyers in our small town at least one or two real estate transactions involving mortgages each month. This meant that at least I could pay the rent and utilities while my wife continued making the big money and supporting us as a teacher. It wasn't a big amount, but at least we could count on it.

However, beginning in the 1970s things began to change. Banks began to merge, local contacts began to dry up and before we knew it, the title work was no longer being doled out to the local attorneys. Instead, a few firms in the Big City were getting all of the work. The Lord only knows how that happened, but I am sure that there were no kickbacks to loan officers that violated HUD regulations.

That went on for a number of years until a new animal was born. That animal is called a settlement company. In the beginning, they were local lay people who had a background in doing title searches for lawyers. Some of them prospered, others did not. Then the concept of the settlement company evolved into an adjunct of the real estate agency conglomerates.

This came about as the result of the decision in the case of *LaBrum v. Commonwealth Land Title Insurance Company*, 56 A.2d 246 (1956) in which the Pennsylvania Supreme Court held that title insurance companies, title insurance agencies and independent title insurance abstractor/title agents might prepare documentation directly involved in a real estate transaction where title insurance was being issued. Who am I to say that this was a stupid decision on the part of the esteemed Justices of the Court at that time? Of course, we are all aware of the fact that the Justices have always, and continue to, understand and grasp the problems faced by small town lawyers. But I digress.

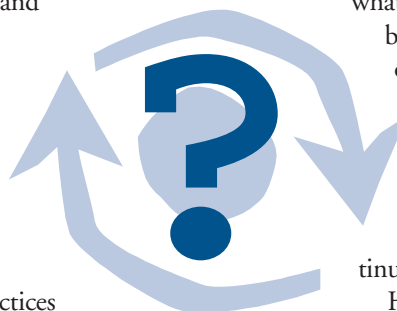
In any event, those lawyers who concentrate their practices in the area of representing buyers and sellers of real estate have seen their practices evaporate to near zero. There are some exceptions, but they are very few. Those lawyers who represent sellers and who have convinced their clients, contrary to the suggestions of the realtor or the settlement officer, that they really should be at the closing to protect the clients' interests have seen some strange things happen.

Typically, the lawyer goes to the closing with the client and a new deed. The lawyer and the seller sit there while the closing agent shuffles through a six-inch-high stack of documents with the buyers, who are not represented by counsel. The closing agent, in nearly all cases, is not

a lawyer. Even if he is a lawyer, he sure as hell is not representing the buyers. He is representing the lender. Typically, the closing officer is a former Avon Lady whose professional training might be limited to learning how to say “sign here” in a pleasant voice and to do four or five closings a day for five days a week. When the buyers ask what they are signing, the settlement agent attempts to explain, which, dear friends, constitutes the unauthorized practice of law. In nearly all cases, the explanations are either incorrect or incomplete. But, then again, the buyers need not know what they are getting into because they are only obligating themselves to possibly the most important purchase in their lives, the obligations of which might continue for 30 years or so.

However, there is a ray of hope! On December 1, 2003, the Supreme Court of South Carolina, at 2003 S.C. LEXIS 293, held that a non-lawyer title abstractor who examines public records and reports the status of title to real estate without the supervision of an attorney is engaged in the unauthorized practice of law. The Court cited with approval its prior holdings in *State v. Buyers Serv., Inc.*, 292 SC 426 (preparation of title abstracts by title companies for purchasers of residential real estate without supervision of attorney constitutes unauthorized practice of law); *Doe v. McMaster*, 355 SC 306 (2003) (title company's title search and preparation of title documents for lender without supervision of attorney

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Nominations Announced for 2004–2005 Board, Committees

The Nominating Committee of the Westmoreland Bar Association has recommended the following members for positions on the Board of Directors and the Membership and Building Committees. Those WBA members attending the Annual Meeting of the association, to be held on April 5, 2004, will vote “yea” or “nay” to fill these positions.



▲ Incoming WBA President Robert I. Johnston

At the conclusion of the annual meeting, Robert I. Johnston will assume the Bar presidency.

VICE PRESIDENT: REBECCA A. BRAMMELL

The Vice President ensures that the WBA’s mission, services, policies and programs are carried out. One-year term.

Rebecca A. Brammell is in her third year as a Director on the WBA board. She is currently Co-Chair of the Small Firm/Solo Practice Committee, and is a member of the Elder Law/Orphans’ Court, Women in Law, Planning and LRS Committees. Becky also serves as a Trustee for the Westmoreland Bar Foundation and is a member of the Ned J. Nakles American Inn of Court.

A graduate of Duquesne University School of Law, Becky has been a member of the WBA since 1986 and maintains a solo practice in Harrison City.



▲ Rebecca A. Brammell

BOARD OF DIRECTORS: JAMES R. ANTONIONO

The Director ensures that the WBA’s mission, services, policies and programs are carried out. Three-year term.

A member of the WBA since 1982, James R. Antoniono is a member of the Governmental Affairs and PAC Committees, and has been a Pro Bono volunteer and Law Day participant. He is Vice President of the Westmoreland County Academy of Trial Lawyers and a past-President of the Western Pennsylvania Trial Lawyers Association and Lawyers Abstract Company of Westmoreland County. His current membership includes the American Trial Lawyers Association, Pennsylvania Bar Association, American Bar Association, and the Million Dollar Advocates Forum.

Jim submitted his name for nomination to the WBA Board of Directors because he believes he was given a wonderful opportunity to practice law in a county where lawyers are respected and treated with dignity by both the Bench and the Bar. “I believe this is due in no small part to the quality of the Bar Association as it has evolved over time,” he says. “Now that I have had the benefit of 20+ years of practice in this county, I want to work to enhance the stature of our profession. I look forward to working with the Officers and Board to continue our Bar’s rich tradition.”



▲ James R. Antoniono

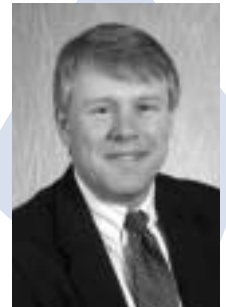
Jim received his BA from Penn State, MA from Rutgers and JD from Duquesne University. He is a partner in DeBernardo, Antoniono, McCabe & Davis, P.C., in Greensburg.

MEMBERSHIP COMMITTEE: JOHN K. GREINER

The Membership Committee is the first point of contact that most applicants have with the WBA. Five-year term.

John K. Greiner currently serves on the WBA’s Bench/Bar and Orphans’ Court Committees. A member of the Pennsylvania Association of Trial Lawyers, the Ned J. Nakles American Inn of Court, and the American and Pennsylvania Bar Associations, John is also a past-President and former Director of Lawyers Abstract Company of Westmoreland County.

An avid sportsman, John has been risk management advisor to the National Ski Patrol—Western Appalachian Region, and legal and estate planning advisor to the National Rifle Association, as well as various other local sportsmen’s and conservation associations. He is a member of the National Ski Patrol, Youth Field Day Coordinator for the National Wild Turkey Federation Pennsylvania Local Chapter 1, and



▲ John K. Greiner

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President's Message *continued from page 2*

is unauthorized practice of law); *Matter of Lester*, 353 SC 246 (2003) (disciplining attorney for authorizing paralegal to conduct closing where attorney was not present).

The Court held that examining titles and preparing title abstracts constitutes practicing law and that licensed attorneys either conduct or supervise such activities. The Court noted that even if the title abstractor's report was not guaranteeing title or certifying that title was marketable, it still had a "legal" effect and constitutes the practice of law.

More good stuff: in *Doe v. McMaster*, supra, the Court held that lay persons could not prepare real estate instruments; that real estate and mortgage closings should be conducted only under the supervision of independent attorneys who are not employees of title companies and who, if they represent both the lender and the buyer must give full disclosure to both and obtain consent from both parties; and rejected the title company's argument that it did not need attorney supervision because the title search was merely incidental to the business of insuring title.

The Unauthorized Practice of Law Committee of the Pennsylvania Bar Association, in commenting on these recent cases, says that this is a most interesting development, considering that the law of the state of South Carolina is very similar to the law of the Commonwealth of Pennsylvania.

This is not to say that the present practice will change overnight. There are lots of folks out there, most of them non-lawyers, who would be very unhappy with this result in Pennsylvania. Unfortunately, most of those folks have a very big lobby with lots of money to try to see that it doesn't happen. However, it is ultimately the job of the Court to determine what is and what is not the unauthorized practice of law.

So, kiddies, brush up on the Rule In Shelley's Case, update your volumes of Ladner on Conveyancing and look for brighter days ahead—maybe.

Nominations Announced for 2004–2005 *continued from page 3*

past-President of the Sportsmen's Association of Greensburg.

John is a graduate of St. Vincent College and the University of Pittsburgh School of Law. He is a former Assistant District Attorney and instructor at Seton Hill College, and is currently a partner with Belden Law in Greensburg.

BUILDING COMMITTEE: DAVID S. DEROSE

Responsible for maintaining the management and upkeep of Bar Headquarters. Five-year term.

David S. DeRose has been serving as Chair of the Building Committee since its inception. "Because of my involvement in helping to secure our headquarters and continuing to maintain it and improve it, I think I bring an historical perspective to the issues that confront us that newer members simply would not have," he explains. "I continue to be energized about the work of the committee and I hope that you will afford me the opportunity to continue to do so."

In addition to serving on the Building Committee, David is a current member of the Family Law and Elder Law/Orphans' Court Committees. A graduate of Penn State and Duquesne University School of Law, he is an associate with QuatriniRaffertyGalloway in Greensburg.



▲
David S. DeRose

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Spotlight on The Hon. Richard E. McCormick, Jr.



Q WHICH LIVING PERSON DO YOU MOST ADMIRE?

A My mother. A husband, eight kids and two cancers, and she's still standing.

Q WHAT TALENT WOULD YOU MOST LIKE TO HAVE?

A To play the guitar, like Richard Thompson, with Jim Wells, John Blahovec and Chris Feliciani.

Q WHAT IS YOUR GREATEST REGRET?

A Not paying attention in high school. Think how much more I would know on "Jeopardy!"



Q WHAT IS YOUR IDEA OF HAPPINESS?

A A day in June. Golf, gardening, and dinner by the pool.

Q WHO ARE YOUR FAVORITE CHARACTERS IN FICTION?

A Rabbit Angstrom, Chip Hilton, Stephen Maturin, Atticus Finch.

Q WHAT IS YOUR GREATEST EXTRAVAGANCE?

A Too many golf clubs, including 25 putters.

Q WHAT DO YOU MOST DISLIKE?

A The total disregard for the common good shown by the powers that be.

Q WHAT ARE YOUR MOST TREASURED POSSESSIONS?

A The books I have read, and the books I have yet to read.

Q WHAT QUALITY DO YOU MOST VALUE IN YOUR FRIENDS?

A Loyalty.

Q WHAT OTHER JOBS HAVE YOU HELD?

A Bartender, ditch digger, line painter, tax investigator and Congressional Assistant.

Q YOUR FAVORITE?

A Congressional Assistant for the Hon. John H. Dent, back when our

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bookmark What Have You Been Reading?

by Jackie Knupp, Esq.

I have taken what little time and energy I have left after working and raising my three children to write the “Bookmark” column for this issue of *the sidebar*. Why, you might ask? Well, mostly because for as long



▲ Jackie Knupp

as this column has been in existence, I have been amazed that they still make books without pictures. You see, it has been quite some time since I have had the luxury of enjoying a good book, sans pictures. So I felt there may be others out there like me, and this one's for them.

THE GIRLFRIENDS' GUIDE TO PREGNANCY ♦ by Vicki Iovine ♦

This book is a really funny, informative guide to all things pregnant, and then eventually, unpregnant. You know how when a group of lawyers get together the conversation almost always turns into a retelling of war stories? Well, mothers are like that, too. Put a group of moms in a room and eventually they are all discussing their worst or most unexpected pregnancy experience and, of course, the whole sordid story of the labor and delivery of each and every child.

These are the stories that typically are not shared with “outsiders,” mostly because no one enjoys hearing a horrifying labor and delivery tale more than a woman who has been there, and no one enjoys it less than someone who hasn't. But the problem is that there is lots of useful, albeit somewhat embarrassing, information that never gets told to expectant mothers. Sure, there are books depicting the position and size of the baby at every stage of pregnancy, and providing you with the best diet

for you and your unborn child. None however answer the eternal question “Did my water really break or did I just pee my pants?”

Enter Vicki Iovine. *The Girlfriends Guide* is written as though the reader were part of girls night out, dishing on literally every aspect of pregnancy and childbirth. Nothing is off limits. I highly recommend this book if you or someone you know is, well, expecting. So would the boys (and girl) of Belden Law please go buy Jim and Dawn Wells a copy. They're gonna need it.

THE GIRLFRIENDS' GUIDE TO SURVIVING THE FIRST YEAR OF MOTHERHOOD

♦ by Vicki Iovine ♦

This is written in the same manner as her pregnancy book, but it's not nearly as witty.

That's what sleep deprivation can do to you. Or maybe you realize that this just isn't funny anymore now that you have this little, helpless being wholly in your care. What were you thinking, after all?

BRONCHIOLITIS AND YOUR YOUNG CHILD ♦ This is not really a book so much as a pamphlet. You see, when your child is really sick, there is never time to read that multi-volume medical reference set you purchased.

Your pediatrician will gladly provide you with a pamphlet on any number of topics when you appear for yet another sick visit. And they're free.

THE KING OF TORTS ♦ by John Grisham ♦ Well, no, I haven't actually read it, but I do own it. You see, my husband bought it for me for Valentine's Day (more on that later)

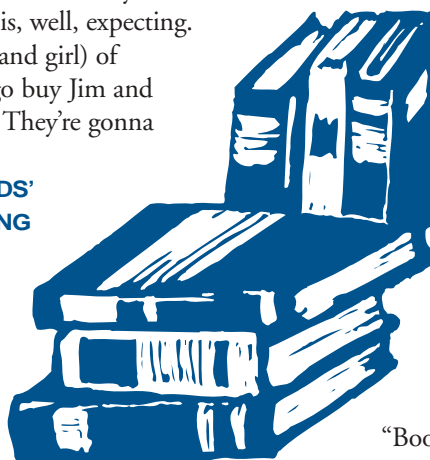
last year. He thought that since I was cutting back at work I would have plenty of time to read it. He's so funny (and not usually this wrong.)

I have also noticed a trend in reading other “Bookmark” columns that people tend to read the

same book more than once. I, too, have allowed myself the same pleasure. Here is the short list of books that I have read over ... and over ... and over:

GOODNIGHT MOON
PAT THE BUNNY
I LOVE YOU FOREVER
ONCE UPON A POTTY (both for boys and for girls)
EVERYONE POOPS

Well, you get the idea. Happy reading.



Spotlight *continued from page 5*

federal government made a meaningful and positive difference in people's lives.

Q WHAT IS YOUR GREATEST ACCOMPLISHMENT?

A *The Code of Hammurabi* and *McCormick on Evidence*. I'm not responsible for *Blahovec on Hydraulics*.

Q WHAT IS YOUR FAVORITE JOURNEY?

A To the beach, any beach.

Q WHAT IS YOUR MOTTO?

A “Something tells me I'm in to something good.”

dicta **I Have A Drinking Problem**

by Beth Orbison, Esq.

I have a drinking problem. All of the literature said that it would happen like this, that it was inevitable, but I'm still caught unprepared. (It's so easy to disregard "the literature.")

All of my friends are talking about it. I haven't gone to one social gathering in the last several months where someone's not talking about it.

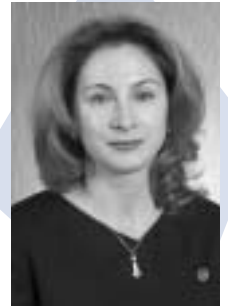
For example, last weekend I visited several old friends in New York City and the conversations went like this. Wendy said that she was perturbed because her 18-year-old daughter recently found Timmy, a house guest and our mutual friend, passed out (under the influence of alcohol) on the

kitchen floor. So she proposes that David and Stuart, Timmy's roommates from an Ivy League school in New England, mention this little episode to him, because she's concerned. We initially plan to meet at a restaurant on the Upper West Side, where this conversation with Tim will be initiated, but, at the last minute, Wendy suggests that we all drive up to their house in Westchester County instead and stay overnight ... so that we can all drink (more) without having to be concerned about driving home.

Despite the temptation, we have dinner in town. Wendy and David tell Tim what a naughty boy he's been, while Stuart (Wendy's husband) discreetly solicits the waiter to give him "just one more" after-dinner drink.

When Wendy sees what Stuart is up to, she vacillates between scolding him and not noticing him as Stuart repeats the above at least two more times.

Although Tim was chastened throughout dinner, as soon as we return to his apartment, in the midst of brief before-bed conversation he consumes two large glasses of scotch, straight up, in short order. Throughout the next morning, as I run around town doing errands with Tim, I easily detect the odor of last night.



▲ Beth Orbison

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Dicta: I Have A Drinking Problem *continued from page 7*

The night before, John lamented that he fears that his friends, many of whom are in arts and entertainment businesses, no longer find him to be interesting company, and in fact find it disconcerting that he has stopped drinking. I detect little difference in John, except that now he seems to be more directly engaged with everyone sitting around the table, and he is as lively, irreverent, and informed as ever, but without the nasty edge.

Scenes like this have been occurring with regularity and frequency in my life for several months now. My drinking problem is this: I am not able to go to a social function among close friends without the conversation eventually leading to the topic of drinking.

You see, we, that is, my friends and I, are all hovering around the magic age of fifty. That is when, as the literature foretold, the undeniable signs of the progressive illness of alcoholism begin to blossom and become impossible to

discount or ignore. And I am struggling with this new-found awareness.

Many of us who are now “of a certain age” enjoyed a tremendous amount of freedom in the seventies. We unabashedly consumed mind- or mood-altering substances in the cloister of our private colleges and universities without fear of consequences and with a large dose of pride and privilege. We embraced the liberation from convention and tradition that drug and alcohol use represented and we never considered that what we did was a problem. On the contrary, we believed that it fueled our creativity, our curiosity, our desire to live “outside the box.” We weren’t common men, Everymen, but adventurers.

In our group, Tim O’B. was the first to die from the effects of chronic acute hepatitis. (By deeming Tim O’B. as the first, I realize, with a shudder, that there will be a second and a third, and so on ...) Even now,

his life on the edge is glorified with reverence by his friends—he double-majored in Intensive Japanese and Intensive Chinese his freshman year at Yale, survived a “should-have-been” deadly crash in his BMW 2002tii, lost his professional license and his successful Manhattan psychology practice, and finally stopped consuming combinations of cocaine and heroin when he feared that his 8-year-old daughter would find him as he lie bleeding and immobile on the bathroom floor of his Greenwich

Village apartment. Tim O’B. was an elegant, charming and sophisticated man, apart from his addictions. Larger-than-life action figures like Tim O’B. aren’t easily referred to by the common name “alcoholic,” people who suffer from a potentially debilitating disease. And many of my friends, by virtue of their academic achievements, professional successes and creative accomplishments, seem larger-than-life, people who should not falter. But they are suffering.

When I recently assumed a clinical stance and suggested that the alcohol use exhibited in our friends was an indication that so many had not dealt with their old pain, David corrected me. He said pain is never dealt with, only accommodated. How do you begin to suggest to an alcoholic friend, colleague, spouse that he accommodate his pain without the alcohol? The answer evades me, and shame rears its ugly head at the first mention of the topic.

I have attended Alcoholics Anonymous meetings looking for enlightenment, and received continuing legal education credits in courses offered by “Lawyers Concerned for Lawyers,” but I am still confused about what to do.

And lest you think otherwise, as I tattle-tale on my friends, I am not exempt. As I write this, I am sipping a glass of wine, which provides the necessary lubricant to disinhibit me enough to express these thoughts, in spite of the shame.

In association with the PBA, Lawyers Concerned for Lawyers of Pennsylvania, Inc., provides the Lawyers’ Confidential Helpline. Call 1-888-999-1941, 24 hours a day, 7 days a week. A volunteer will assist you with a discreet and confidential referral to a qualified healthcare professional and LCL will pay for your first consultation.

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To-Wit: The Lawyer Who Knew Too Much

by S. Sponte, Esq.

I have just recently returned from our annual year-end family vacation, the time when my kiddies, albeit grown and with kiddies of their own, and I congregate by the Gulf of Mexico, to enjoy some essential but all-too-rare time together. It is my most favorite time, a chance for me to enjoy the people dearest to me, to play some golf, to escape the winter and to catch up on my eating.

So when I returned to work, rested, tanned, stuffed, I was at peace with the world and wholly unprepared for the first professional activity awaiting me. It was lunch with a colleague, not just a pleasurable lunch, but rather a lunch arranged for the sole and exclusive purpose of discussing a case.

He had called right before I went

on vacation. Seems he had been assigned the defense of this fairly simple auto accident case by the insurance company and he wanted to set up this lunch to talk about it.

I was pleased to hear from him. I've known him a long time, and even though he has done a lot of insurance defense work for a lot of years, he still has some residue of a heart left. We hadn't had a case together in quite a while, and I knew that with him on the case I could count on a professional, and therefore pleasurable, experience.

"How are you, pal?" I said as I sat down in the booth.

"Seventeen thousand four hundred fifty-five dollars and eighteen cents," he replied.

"What?" I countered.

"That's what your case is worth,

that's what I'm offering you."

"It's nice to see you, too, Bill. How are Susan and the kids?"

"Take it or leave it," he replied, ignoring my personal question.

He then lapsed into some kind of aphasic state, staring vacantly and unresponsively into space. It's the same look I see from every insurance defense counsel every time plaintiffs begin to sob on the witness stand as they recall the pain of their dismemberment.

As I was contemplating my next step, the waiter brought lunch. "There's something wrong with my tuna surprise," I told the waiter, "it doesn't have any tuna in it."

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To-Wit: The Lawyer Who Knew Too Much

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“That’s the surprise,” he said.

Though I attempted to continue to discuss the case, my colleague made no further verbal responses. Instead he kept holding up a changing array of fingers. It took me the rest of the meal to figure out he was merely repeating his offer by gesturing it in Roman numerals. I had a response, but fearing he would mistake it for my willingness to settle the case for one dollar, I let the moment pass.

After lunch, I sat in my office, perplexed by the experience. Bill had been one of the best litigators in town, tough, smart, mean as a Rotweiler, you know, a good lawyer. A quick call to one of his partners revealed that he had been behaving like this for some months now.

“Why should a case take three or four years to resolve,” he had said to the other members of his firm, “when good lawyers on opposite sides of a case know pretty much what it’s worth from the get go.” With that he announced that he was fed up with the slow crawl of the law, that it wasted everyone’s time and that from now on he intended to handle all of his cases with logic, fair play and intellect. His partners were understandably terrified, but did nothing.

My duty was clear. I had a moral and ethical obligation to report this bizarre behavior to the powers that be, and I started with the president of our bar.

“Yeah, I heard Bill was acting weird,” he told me over the phone.

“Have you done anything about it?” I asked him.

“No, but I will,” he said.

“This could be serious,” I replied, “what are you waiting for?”

“He has three of my cases.”

Not content with that response, I called the local chair of the Lawyers Concerned for Lawyers Committee.

“No, I hadn’t heard that Bill was having any problems,” he responded,

“but I’ll look into it soon.”

“Why not now?” I asked him.

“My cape isn’t back from the cleaners.”

But over the next several days, I began to think differently. Maybe Bill was right. The liability in the case was pretty clear, the injuries pretty common, and his offer was actually pretty much exactly what I had figured the case was worth. True, his approach was somewhat idiosyncratic, his behavior somewhat wacky, but I had to admit there was a certain logic to it. Besides, I figured my client would be thrilled at getting his case resolved so quickly.

“I’m not thrilled,” my client said when I informed him of the offer. “If that’s his first offer, he’ll come up.”

“I don’t think you understand the concept here,” I reminded him. “He’s made an eminently fair offer and you can get your money now.”

“Yeah, it’s fair, and it’s what you told me the case was worth, but I want more money,” he said, and he refused to settle.

Not five minutes later I received a call from the LCL chair, advising that he had interviewed Bill, and had found him logical, rational and fair. “I’ve convinced him to go into rehab,” he said, “and once he’s over this, there’s no reason he can’t be a successful lawyer once again.”

And that’s when it crystallized for me. Sure, Bill’s concept was logical, rational, fair, but dammit all, this is the law we’re talking about, a system designed to be adversarial. And it’s fueled by people’s psyches, by their passions, their foibles and fears, their greed, lust, and combativeness to boot. If clients were capable of managing these aspects of their personalities with logic, reason and fair play, what the hell would they need us for?

Last week Bill returned to work, and I called him. “Bill,” I said, “I thought about your offer and I think it’s fair. Still want to settle?”

“What,” he answered, “are you nuts?”

I was delighted he was feeling so much better.

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... or better yet, have them contact me themselves.

Thanks and let’s watch it out there.

September/October and November/December 2003 Trial Terms

Jury Trial Verdicts

by Rachel Yantos, Esq.

Of 119 cases scheduled for trial during the September/October 2003 civil trial term, 25 settled, 1 was withdrawn, 1 was discontinued, 28 were continued, 6 moved to arbitration, 1 was transferred to mediation, 1 will be non-jury, 1 will be a binding summary jury trial, 2 were binding summary jury trials, 5 verdicts were entered and 48 were held to the next trial term.

**THEODORE A. MAKARA AND
KAREN A. MAKARA**

V.

**PLUM BOROUGH,
ANDREW McNELIS, CITY OF
NEW KENSINGTON AND
FRANK C. GEROMITA**

V.

**THE ESTATE OF ROGER JAMES
SCHMIDT, JOHN L. FRIEDMAN,
AND DIANE SWETOS IN THEIR
CAPACITY AS THE ADMINISTRATORS OF THE ESTATE OF ROGER
JAMES SCHMIDT, ADDITIONAL
DEFENDANTS
NO. 1954 OF 1999**

*Cause of Action: Negligence—
Police Officers' Pursuit of Vehicle*

Plaintiffs alleged that on September 12, 1998, at approximately 2:30 a.m., the defendant police officers negligently commenced a high-speed chase of a vehicle driven by Roger J. Schmidt, who evaded a DUI sobriety checkpoint in Plum Borough near the Westmoreland County/City of New Kensington border. The pursuit was initiated by defendant McNelis and continued into New Kensington, where defendant Geromita joined in the pursuit. At approximately two miles from the checkpoint, the Schmidt vehicle failed to negotiate a curve in the road and collided head on with the vehicle operated by

plaintiff, who was traveling in the opposite direction. Schmidt was killed instantly; plaintiff was life-flighted to UPMC Presbyterian Hospital, where he remained until October 30, 1998. His injuries included a sternal fracture, closed left femur fracture, right distal ankle fracture of the talus, left tibia fracture and broken right hand and ribs. Complications included acute renal failure, staph infection and cardiac arrest during a CAT scan. On September 29, a right below-knee amputation was performed. He was treated at Harmarville Rehabilitation for a year and a half, and has been unable to return to work as a construction laborer. Wife-plaintiff asserted loss of consortium.

The defendants averred that their actions were at all times reasonable, prudent, justified, proper and in keeping with their duties and obligations as law enforcement officers. Defendant McNelis stated that he observed Schmidt evade the checkpoint, so he attempted to affect a traffic stop. Schmidt then accelerated his vehicle and appeared to swerve toward another Plum Borough police officer who was engaged in a traffic stop further down the road. McNelis initially pursued Schmidt, but after observing him continue to accelerate and

commit a number of traffic violations, McNelis slowed to a slack pursuit mode in order to monitor the vehicle and attempted only to keep the Schmidt vehicle in view at a distance. Defendant Geromita stated that he did not know the initial cause of the pursuit, but observed Schmidt nearly hit another police officer at a traffic stop. Geromita followed McNelis to render assistance, if necessary. Geromita contended that he acted only in a backup/assistance capacity with respect to the pursuit.

Plaintiff contended that failure to stop at a DUI checkpoint did not justify a police chase; that defendants only had probable cause to believe that Schmidt committed either summary offenses or misdemeanors for which he could have been cited

continued on page 12

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Jury Trial Verdicts *continued from page 11*

and/or arrested in due course; that defendants' actions caused unreasonable risk of harm to innocent motorists and placed the public at large in imminent danger; and that the continuing pursuit was unwarranted because the vehicle did not, except for the pursuit, pose an immediate threat to public safety. Plaintiff argued that the defendants waived any immunity defenses under the Pennsylvania Political Subdivision Tort Claims Act (PSTCA).

Defendant McNelis contended that he had probable cause to believe that Schmidt had committed a felonious assault based upon Schmidt's conduct as observed by McNelis, and had probable cause to believe that Schmidt's further operation of his vehicle that night might constitute a serious danger to the public health and safety. Defendants asserted the doctrines of governmental and official immunity under the PSTCA, and

that plaintiff's damages were caused solely by the superseding, intervening criminal conduct of a third party beyond their control. Schmidt's estate was joined for contribution and indemnity.

Plaintiffs' Counsel: James R. Mall, Meyer, Unkovic & Scott LLP, Pgh.

Counsel for Defendant Plum and McNelis: Paul D. Krepps, Marshall, Dennehey, Warner, Coleman & Goggin, P.C.

Counsel for Defendant New Kensington and Geromita: John M. Giunta, Zimmer Kunz P.L.L.C.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Molded verdict in favor of all defendants. Jury found that defendant police officers were not negligent in the operation of their vehicles.

Author's note: an identical verdict had been reached in a summary jury trial.

LEILA M. SPAUN

V.

**DONEGAL MUTUAL
INSURANCE COMPANY
NO. 4109 OF 1996**

*Cause of Action: Insurance—
Breach of Contract—Bad Faith*

This dispute arose from the defendant-insurance company's cancellation of plaintiff-insured's policy of automobile insurance upon its determination that plaintiff untimely paid insurance premiums. Plaintiff alleged that she mailed her premium payment in the amount of \$191.50 on October 10, 1994, but defendant rejected the same as untimely and cancelled plaintiff's coverage on said policy. On October 17, plaintiff was involved in a motor vehicle accident. Plaintiff averred that defendant did not notify her until October 20 that her coverage had been cancelled effective October 12, 1994, for non-payment of the



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premium. The cancellation notice indicated a due date of October 12 and receipt of plaintiff's check on October 17. Defendant refused to provide coverage for plaintiff's injuries suffered in the October 17 accident. Plaintiff lost her full tort coverage and was considered by law to hold limited tort status. Because of the termination of coverage, she could claim neither non-economic loss nor first party benefits. In addition to breach of contract, plaintiff claimed that the defendant acted in bad faith by unjustifiably canceling coverage upon receiving notice of an automobile accident and in retroactively canceling her policy based upon non-payment of premiums, which, in fact, were forwarded to defendant on a timely basis.

Defendant averred that plaintiff did not pay the premium due on or before September 9. On September 21, defendant sent a cancellation notice to plaintiff, which informed her that the policy was cancelled if payment was not received on or before October 12. Defendant received plaintiff's check on October 17. On October 19, defendant returned plaintiff's check and again informed her that her insurance coverage was cancelled effective October 12. Defendant asserted that plaintiff's claims were barred because defendant properly cancelled the insurance policy. Plaintiff had also filed a complaint with the Pennsylvania Insurance Department. Defendant contended that plaintiff was barred or estopped from asserting a claim against defendant for cancellation of her policy because the Pennsylvania Insurance Department had determined that defendant did not violate any insurance statute or regulation.

Plaintiff's Counsel: Timothy Paul Dawson, Adamsburg

Defendant's Counsel: Lee Demosky, Meyer, Darragh, Buckler, Bebenek & Eck, Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of defendant. Jury found that defendant

did not receive plaintiff's premium on or before October 12, 1994, and that defendant properly cancelled plaintiff's policy due to her failure to pay the premium by its due date of October 12, 1994.

**CARL KURINKO
V.
LAUREL MOUNTAIN SKI
COMPANY, A PENNSYLVANIA
CORPORATION
NO. 338 OF 2001**

*Cause of Action: Negligence—
Premises Liability*

On January 25, 2000, plaintiff was a visitor/invitee at the defendant's resort in Ligonier. As he walked from the parking lot to the main lodge, he slipped and fell on an accumulation of ice and snow in an area that was also used by skiers. Plaintiff contended that defendant was negligent, inter alia, in failing to construct or maintain an appropriate walkway to the resort, free and clear of ice and snow, to insure the safety of its patrons. Plaintiff sustained a displaced fracture of the mid-shaft of the right clavicle.

Defendant averred that plaintiff was aware of the risks of walking on a slippery surface, chose to walk and assumed the risk of injury. Defendant

contended that plaintiff was negligent in failing to keep a proper lookout, in placing himself in an area which he knew or should have known posed danger; in wearing improper footwear, in walking too fast for conditions and in failing to use due care and caution under the circumstances.

Plaintiff's Counsel: Jerome L. Tierney, North Huntingdon

Defendant's Counsel: Gerard J.

Cipriani, Cipriani & Werner, P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of defendant. Jury attributed 51% causal negligence to the plaintiff.


**DAWNA MACIOCE AND RICK
MACIOCE, HER HUSBAND**

**V.
ERNEST E. LONG
NO. 435 OF 2000**

*Cause of Action: Negligence—
Motor Vehicle Accident*

This motor vehicle collision occurred on April 8, 1998, at approximately 11:15 p.m. on Route 30 in Hempfield Township. Plaintiff was a passenger in an F150 Ford Truck operated by her husband. They were traveling in the outermost lane of the four-lane


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Jury Trial Verdicts *continued from page 13*

highway near Christopher's Pizza Shop. Plaintiff alleged that the Cadillac vehicle driven by defendant was traveling in the same lane at a high rate of speed when it negligently struck the rear end of the vehicle occupied by plaintiff. In his pre-trial statement, defendant contended that upon crossing into the outer lane of travel, he encountered the plaintiffs' pickup truck, which was either stopped or slow-moving. Defendant argued that he did not have time to stop and impacted the rear of the pickup.

Plaintiff sought emergent treatment for cervical strain, muscle strain and spasm. She returned to the hospital on April 12, 1999, for numbness in her left arm, and pain and swelling in her neck. She received numerous shots to the shoulder and neck for pain. Plaintiff had three operations on her left shoulder and left side of her neck, and is scheduled for a fourth operation. Plaintiff claimed that she was unable to work for approximately two and one-half years because of these injuries and lost her employment due to the length of time she was off work. Husband-plaintiff submitted a claim for loss of consortium.

Plaintiffs' Counsel: Robert M. Stefanon, Herminie; Donald R. Rigone, Fisher, Long & Rigone, Gbg.

Defendant's Counsel: John M. Noble, Meyer, Darragh Buckler Bebenek & Eck, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Molded verdict for plaintiff in the amount of \$30,000. No award for husband-plaintiff for loss of consortium.

**PATRICIA A. RODGERS AND
DAVID H. CULLIS
V.**

**JAMES BEERE, DECEASED
NO. 6927 OF 1999**

*Cause of Action: Negligence—
Motor Vehicle Accident*

Plaintiffs were involved in a motor vehicle collision that occurred in North Huntingdon Township on December 22, 1997, at approximately 6:40 p.m. at the intersection of Route 30 and the entrance to Kenny Ross Chevrolet. Plaintiff Patricia Rodgers was a passenger in a vehicle operated by her husband, plaintiff David Cullis. Plaintiffs were traveling west on Route

30 and stopped to allow traffic to clear before turning south into the entrance of Kenny Ross Chevrolet. Plaintiffs contended that the turn signal on their vehicle was properly activated. The defendant, James Beere, was traveling directly behind the plaintiffs' vehicle. Plaintiffs averred that defendant failed to stop, causing the front of defendant's vehicle to collide with the rear of plaintiffs' vehicle. Plaintiff Rodgers sustained injuries of disc herniation of L3-4, disc bulge and facet hypertrophy at L4-5, narrowing of the neuroforamen at L5-S1, blunt force trauma to the left index finger and soft tissue injuries. Plaintiff Cullis also sustained soft tissue injuries. Both asserted claims for loss of consortium.

Defendant denied that he operated his vehicle in a negligent, careless or reckless manner, and contended that he at all times acted reasonably and with due care. In new matter, defendant asserted the affirmative defenses of contributory/comparative negligence, the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL), as amended, and that plaintiffs' injuries were caused solely by third parties over which defendant has no control.

Plaintiffs' Counsel: Ned J. Nakles, Jr., Nakles and Nakles, Latrobe

Defendant's Counsel: Laura R. Pasquinelli, Law Office of Marianne C. Mních, Pgh.

Trial Judge: The Hon. Gary P. Caruso

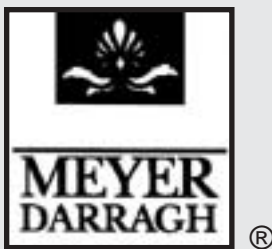
Result: Verdict in favor of defendant.

**JOSEPH A. LAWRENCE AND
JOAN M. LAWRENCE, HIS WIFE
V.**

**RALPH P. CRONIN
NO. 1959 OF 1998**

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

On April 13, 1996, at approximately 12:45 p.m., husband-plaintiff was



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operating his pickup truck, in which his wife was a passenger, in an easterly direction on State Route 130 in Unity Township. The defendant was driving his pickup truck in a northerly direction on State Route 981 at its intersection with Route 130. Plaintiff alleged that due to the negligence of the defendant, the plaintiff's pickup truck was caused to run into and collide with the pickup truck of defendant. Plaintiffs averred that defendant was negligent, inter alia, in failing to stop at the intersection of State Routes 981 and 130 in disregard of a flashing red signal and in failing to yield the right-of-way to the plaintiff's vehicle. Husband-plaintiff sustained cervical stiffness, posterior bilateral shoulder pain and discomfort, closed avulsion fracture of the proximal phalanx of the left thumb and various soft tissue injuries. Wife-plaintiff claimed recurring frequent migraine headaches, contusions of the right knee and right leg, cervical crepitus on right and left lateral rotation, cervical strain and sprain and soft tissue injuries.

The defendant denied that plaintiffs' injuries were caused by any negligence of defendant. Defendant asserted the affirmative defenses of contributory negligence/assumption of the risk of husband-plaintiff in operating his vehicle at an unsafe speed and in failing to slow his vehicle at a flashing yellow light. Defendant also asserted any and all defenses available to him under the Pennsylvania MVFRL, as amended, including its limited tort provisions.

Plaintiffs' Counsel: Denis P. Zuzik, Gbg.

Defendant's Counsel: Robert A. Loch, Robb, Leonard & Mulvihill, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Summary jury found defendant's negligence was a factual cause of plaintiffs' injuries, but that plaintiffs did not suffer serious impairment of a bodily function.

Of 111 cases slated for trial during the November/December 2003 civil jury trial term, 35 were settled, 19 were continued, 1 was stricken, 1 moved to arbitration, 1 was to be a non-jury trial, summary judgment was entered in 2, verdicts were entered in 8 and 44 were held to the next trial term. The cases that required jury deliberations are summarized below.

**JEFFREY FENNEL AND
CHRISTINE FENNEL, HIS WIFE
V.
CRYSTAL PIOVESAN
NO. 3104 OF 1999**

*Cause of Action: Negligence—
Motor Vehicle Accident*

This pedestrian/motor vehicle accident occurred on June 14, 1997, at Hempfield Plaza in Hempfield Township, Westmoreland County. Husband-plaintiff was giving directions to a motorist in the travel lane of the parking lot of the McDonald's restaurant building. The defendant's automobile was parked in a stall immediately behind where plaintiff was standing. The defendant backed up and collided with plaintiff, knocking him against the stopped vehicle of the motorist who had asked for directions. Plaintiff claimed severe and permanent injuries to his legs and knees (bruises and contusions), strains and sprains of the muscles, tendons, nerves and ligaments, and injuries and soreness to his neck, cervical region, shoulders, back, head and face, chest, stomach, arms, hips and buttocks. Wife claimed loss of consortium.

Defendant denied negligence and asserted that she acted reasonably and with due care in the operation of her vehicle. In new matter, defendant raised the affirmative defenses of the Pennsylvania Comparative Negligence Act, assumption of the risk of the defendant in knowingly subjecting himself to risk of the injury/damage incurred, and the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL), as amended by Act 6,

including but not limited to its "limited tort" provisions.

Plaintiffs' Counsel: John N. Scales and Brian Aston, Scales and Murray, Gbg.

Defendant's Counsel: Laura R. Signorelli, Law Office of Marianne C. Mnich, Pgh.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Verdict for defendant on non-economic damages claim. Jury found that plaintiff did not sustain a serious injury. Directed verdict on causation/liability issue because defendant's expert physician testified that this accident caused soft tissue injuries to the plaintiff. Molded verdict entered on stipulation of the parties to pay plaintiff's economic claim of \$6,780.78.

**DAWN JOHNSON
V.
FRANK SANTAMARIA, M.D.
NO. 7649 OF 1996**

*Cause of Action: Professional Negligence
—Medical Malpractice*

The plaintiff brought this malpractice action against the defendant-physician for the failure to diagnose Crohn's disease. Plaintiff averred that defendant failed to render reasonable health care under the circumstances in failing to order tests and diagnostic procedures required, including oscopy and barium enema, to rule out the possibility of Crohn's disease; in performing an unnecessary laparotomy with appendectomy on plaintiff; in failing to take a correct and proper history from her so as to be able to properly diagnose her condition on November 11, 1994; and, in that plaintiff was required to undergo additional surgeries and medical treatment as a result of defendant's failure to diagnose. Husband brought a claim for loss of consortium.

Defendant averred that all care rendered to plaintiff by him was in accordance with accepted standards of medical practice, that no negligent

continued on page 16

Jury Trial Verdicts *continued from page 15*

care was rendered to plaintiff, and that no act of defendant directly and proximately caused harm to plaintiff.

Plaintiff's Counsel: Frank R. Fleming, III, Frank R. Fleming, III, P.C., Pgh.

Defendant's Counsel: Henry M. Sneath, Kathryn M. Kenyon, Picadio McCall Miller & Norton, P.C., Pgh.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict in favor of the defendant. Jury found that defendant was not negligent.

**MARWAN E. SADEKNI AND
ANNETTE R. SADEKNI, HIS WIFE
V.
JEFFREY A. MONSOUR,
INDIVIDUALLY, AND JEFFREY A.
MONSOUR, D/B/A MONSOUR
CONSTRUCTION
NO. 5034 OF 1998**

Cause of Action: Breach of Contract

In March 1997, plaintiff-homeowners entered into a written contract with the defendant as a general contractor or builder to construct a 2,900 square foot addition to plaintiffs' residence. The total cost of the work to be performed by defendant was \$142,500.00. The complaint specifically enumerated defendant's alleged delays, improper installation and failure to complete certain work, which plaintiffs asserted constituted material breaches of the contract. Plaintiffs requested damages in the amount of \$60,451.15.

Defendant asserted that the work was completed in a commercially reasonable fashion and in such a manner as to pass without objection in the construction industry. Defendant averred that plaintiffs agreed to pay defendant an additional sum of \$22,500.00 for completion of numerous and extensive modifications, but only tendered \$5,600.00 for the extra work. Defendant claimed

that plaintiffs' failure to pay an outstanding balance of \$16,900.00 represented a material breach of contract, which relieved defendant from completing any remaining work yet to be performed. Defendant sought \$16,900.00 in a counterclaim filed against the plaintiff.

In reply to defendant's new matter, plaintiff averred that many changes were necessitated by the defendant's failure to follow architectural drawings and specifications.

Plaintiffs' Counsel: John M. O'Connell, Jr., O'Connell & Silvis, Gbg.

Defendant's Counsel: Francis R. Murrman, Gbg.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Molded verdict for defendant on his counterclaim against plaintiffs in the amount of \$6,600.00. (Jury found that Mr. Monsour fulfilled his obligations under the contract and that the Sadeknis materially breached the contract.)

**TERRY T. BELZER, INDIVIDUALLY
AND AS ADMINISTRATOR OF THE
ESTATE OF TAMMY S. BELZER,
DECEASED**

V.

**JOHN A. PASKAN AND
ELIZABETH M. PASKAN,
CO-ADMINISTRATORS OF THE
ESTATE OF ANDREW J. PASKAN,
DEFENDANTS**

V.

**WEST PENN POWER AND
TIMOTHY C. SZOLEK,
ADDITIONAL DEFENDANTS
NO. 4844 OF 2002**

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

This accident occurred on July 31, 2000, at approximately 10:53 p.m. on State Road 119 in East Huntingdon Township, Westmoreland County.

Husband-plaintiff, Terry T. Belzer, was operating a truck in which wife-plaintiff was a passenger. The complaint alleged that plaintiffs' truck was in a stationary position on the far right northbound lane of SR 119, with emergency lights activated due to a tractor-trailer that had wrecked in front of plaintiffs. Plaintiffs alleged that defendants' decedent, Andrew J. Paskan, was traveling directly behind plaintiffs at a high rate of speed, when he failed to stop his vehicle, colliding into the rear of plaintiffs' vehicle. Husband-plaintiff claimed serious injury to his neck and back, numbness in both legs, injury to the groin, numbness and pain in his right shoulder, arm, elbow and hand, right lateral epicondylitis, cervical radiculopathy and muscle spasms of the cervical spine. Plaintiffs' policy of insurance provided full tort coverage.

The defendants joined the additional defendants, West Penn Power Company and Timothy C. Szolek, the operator of a vehicle owned by West Penn Power at the time of the accident, for contribution and/or indemnity. Defendants alleged that at the time of the accident, Mr. Szolek caused his vehicle to cross the medial strip into the northbound lanes of SR 119 into the path of the vehicles driven by Mr. Belzer and Mr. Paskan.

Additional defendant averred that he was operating his motor vehicle in a reasonable and prudent manner within the right-hand southbound lane of SR 119 when, suddenly and without warning, one of the vehicle's tires failed or blew, which caused the vehicle to cross the medial strip onto the northbound lanes of SR 119. Mr. Szolek alleged that his vehicle came to a stop without making contact with the vehicle driven by Mr. Belzer, after which time Mr.

Paskan failed to bring his vehicle to a stop before colliding with the rear of the stationary Belzer vehicle. New matter pursuant to Rule 2252(d) was filed against the original defendants for contribution and/or indemnity.

Plaintiffs' Counsel: Thomas E. Crenney and Mark Neff, Thomas E. Crenney & Assoc., P.C., Pgh.

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

Additional Defendants' Counsel: John M. Noble, Meyer, Darragh, Buckler, Bebenek & Eck, P.L.L.C., Gbg.

Trial Judge: The Hon. Daniel J. Ackerman, President Judge

Result: Jury found that Mr. Belzer sustained damages in the amount of \$6,000.00, attributing 75% negligence to Mr. Paskan and 25% negligence to Mr. Szolek. (Wife-plaintiff's claims were settled prior to summary jury trial.)

**FABIAN M. GIOVANNAGELO
V.
LAWRENCE MERVA
NO. 2539 OF 2000**

*Cause of Action: Negligence—
Motor Vehicle Accident*

On May 25, 1998, at 8:33 p.m., the plaintiff was traveling north on Ligonier Street, at or near its intersection with Cedar Street, in Latrobe, Westmoreland County. The defendant was operating his vehicle in a southerly direction on Ligonier Street. Plaintiff averred that the defendant attempted to make a left turn directly across and into the path and lane of the plaintiff, causing their vehicles to collide. Injuries included a disc herniation at T2-3; an injury to the discs at C5-6 and C6-7; injury to the cervical and thoracic spines; injury to his left shoulder and arm; acute sprain to the cervical and thoracic paraspinal musculature; and a cervical strain with nerve impingement in the left trapezeous region.

The defendant denied all allegations of negligence and asserted the affirmative defenses of contributory/comparative negligence and assumption of the risk. Defendant also raised the provisions of the Pennsylvania MVFRL and its amendments known as Act 6. At trial, defendant contended that plaintiff was speeding. He also contested the scope of the plaintiff's injuries and that plaintiff's injuries were related to this accident.

Plaintiff's Counsel: Richard H. Galloway and Joyce Novotny-Prettiman, QuatriniRaffertyGalloway, P.C., Gbg.

Defendant's Counsel: Christopher M. Fleming, Jacobs & Saba, Gbg.

Trial Judge: The Hon. Gary P. Caruso

Result: Molded verdict for plaintiff in the amount of \$59,500.00. (Jury awarded total damages in the amount of \$85,000.00, but attributed 30% causal negligence to plaintiff.)



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Law Library Committee Establishing Self-Help Center

The Law Library Committee has been working to establish a self-help center as a public-education project for the citizens of Westmoreland County.

The self-help center is not envisioned as a collection of do-it-yourself law forms for individuals who wish to dispense with hiring a lawyer. Rather, it is envisioned to be a candle in the dark for individuals who, for one reason or another, are trying to navigate the legal system without the support of counsel. This approach is consistent with the policy expressed in Section 3724 of the Judicial Code, 42 Pa.C.S. § 3724, which requires county law libraries to be “open to the general public.”

To-date, the Committee has not formulated a specific policy on providing forms to *pro se* litigants. Nevertheless, the Committee is operating on the assumption that some forms may be made available. Also, rather than debating policy, the Committee is building a collection of free self-help materials from the Internet and other sources. The key considerations applied when evaluating this material are cost, usefulness, and reliability.

The Committee submitted two self-help files to the Law Library this past June, including forms related to District Justice proceedings. None

of the forms were created by the Committee, taken from books developed for lawyers, or produced by self-help advocacy groups. They are official forms created by the Administrative Office of Pennsylvania Courts and Pennsylvania’s General Assembly.

Because of the convergence of the work of the joint citizens/WBA project on family law and the Committee’s self-help project, funds may become available for the purchase of self-help materials. In light of this development, the Committee will debate and formulate a clear policy for evaluating the quality and appropriateness of the materials, which will certainly include some forms. This will be on the agenda of the next meeting of the Committee.

Jack Mansour Says Thanks

On December 9, 2003, the WBA Family Law Committee held a goodbye luncheon for All Counts Hearing Master Jack Mansour. Attendees contributed to a retirement gift for Jack.

I want to take this opportunity to express my thanks for the wonderful party and gift. It meant so much to me to be honored by all the people that I have come to know and respect. It has been tremendously rewarding for me, to help, along with all of you all of the countless people that have had their unfortunate and difficult domestic problems resolved by all of us.

I certainly hope to see all of you in the future. Best of luck with all your endeavors.

Sincerely,
Jack

Actions of the Board

JANUARY 20, 2004

- Voted to accept Membership Committee recommendations for following members: Nancy Harris, participating; Thomas Koharchik, participating; David Hacker, associate; DeAnn McCoy, participating.
- Reviewed end-of-year financial report. Building costs included new heating and a/c unit, closet construction costs, painting and upkeep of outside of building, and purchase of AED. Committee expenses included planning retreat, LCL travel/education expenses, futures expense, LRS retreat.
- President Kress reported that South Carolina courts have instituted a ruling prohibiting real estate closings to occur without the presence of an attorney.
- CPR and AED training will be set up for interested bar members and a CLE will be offered as part of “Quality of Life” issues.
- AED has been purchased and the staff has been trained in both CPR and AED. Signage for the AED will be displayed at all entrances/exits of Bar building.
- Parameters approved for ACBA rental of first floor space. Negotiations referred back to Building Committee.
- Accepted Membership Committee’s recommendation for change in Associate and Life membership on several WBA members.
- Authorized Membership Committee to review current by-laws and make membership class recommendations for board’s review.
 - Reported that over 130 photos have been taken for the 2004 pictorial directory of the WBA. Photographer Jim Andrews will take photos in his studio for anyone who missed WBA sittings.

And Baby Makes ...

John and Amy Ranker announce the birth of their daughter, Natalie Grace Ranker, born December 27, 2003. She was 8 lb., 12 oz., and 21 inches long. Natalie joins big sisters Jillian, age 13; Katie, age 10; and Molly, age 8; at home. The Rankers are all very happy to have their newest addition.



wba

Candid Camera: 2003 Holiday Dinner Dance



▲ *"I'm sorry, John, I wouldn't know. I've always won my elections."*



▲ *Showing great tact, the sidebar staff arranges a group photo for the upcoming "Name The Old Coots" contest.*



▲ *Judge Caruso once again demonstrates the consummate skill and cunning that has won him the Judicial Finch championship three years running.*



▲ *"Come on, fellas, cut it out. She couldn't dance like this if she were really inflatable."*



▲ *At first agitated that he forgot to put on a tie, Jim Irwin rips off a strip of wallpaper, manages a quick half Windsor knot, and knows that in a minute or so the womenfolk will stop laughing at him and he'll start to feel much better.*

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 ABSTRACTS
 REAL ESTATE & MORTGAGE CLOSINGS


CALENDAR of Events

MARCH

- 11 Real Estate Committee, Noon
- 12 Presentation of New Members, 3 p.m.,
Westmoreland County Courthouse, Courtroom No. 3
St. Paddy's Day Party, 4 to 8 p.m.
- 16 Family Law Committee, Noon
LIVE CLE Lunch 'n Learn: "Ascertaining Income Available for Support and Marital Property," Noon to 2:15 p.m., 2 optional substantive credits
Board Meeting, 4 p.m.
- 17 Membership Committee, Noon
Northern Lawyers Luncheon, Noon,
King's, New Kensington
- 18 Ned J. Nakles American Inn of Court, 5 p.m.
- 19 Bench/Bar Committee, Noon

APRIL

- 5 Annual Meeting, 4 p.m., *Greensburg Country Club*
- 8 Bench/Bar Committee, Noon
- 9 Courthouse closed in observance of Good Friday
- 20 Family Law Committee, Noon
Board Meeting, 4 p.m.
- 21 Ned J. Nakles American Inn of Court, 5 p.m.



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