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THE NEWSLETTER OF THE WESTMORELAND BAR ASSOCIATION  
VOLUME XXV, NUMBER 4  
SEPTEMBER 2013

# E-Filing Implementation: The Devil Is In The Details

by Charles J. Dangelo, Esq.

One does not need the insight of a Nostradamus to predict with absolute certainty that electronic filing will be implemented in Westmoreland County and in every other jurisdiction in the United States.



▲ Chuck Dangelo

The devil, of course, is in the details: When will electronic filing be adopted? How will it be implemented? What will be the terms and conditions of its use? Westmoreland County Prothonotary Christina O'Brien is tackling those difficult questions in an effort

to finally bring electronic filing to Westmoreland County.

## PAST EFFORTS FAILED

In 2006, Westmoreland County almost entered into a contract with Lexis-Nexis to provide it with electronic filing services. The contract was controversial and the effort failed. To avoid a repeat of the Lexis-Nexis situation, Prothonotary O'Brien's policy is to engage stakeholders in a collaborative effort to implement the electronic filing system. To that end, she has involved the Westmoreland Bar Association in the development

process and is determined to shun unpopular business practices, such as hidden fees, that arose in the Lexis-Nexis contract. Moreover, although she has not selected the vendor and software for the e-filing system, the Prothonotary intends to retain control over the system, manage the system, and own the data.

## VISION OF THE FUTURE

Prothonotary O'Brien envisions a voluntary electronic filing system. She does not intend to impose any additional fee or penalty for attorneys who elect to conventionally file documents.

Those attorneys who choose electronic filing will be required to set up a user name and account with the Prothonotary's Office and pay a fee for the service, the amount of which has not yet been determined. The account will be funded by either a credit card or by a prepayment arrangement. The Prothonotary plans to issue itemized invoices to attorneys that show the charges applicable to each case, and not merely the total fee for the month.

Electronic filing offers the practical advantage of allowing attorneys to file documents twenty-four hours a day, seven days a week. Electronically filed documents will be time stamped by the Prothonotary's staff and notice of receipt sent to the filing attorney. The policy of the Prothonotary's office is to review electronic documents using the

same standard as those applied to conventional documents. The Prothonotary will not require mandatory training for attorneys who want to use electronic filing, but training will be available.



▲ Westmoreland County Prothonotary Christina O'Brien

## TECHNICAL ISSUES

There are technical issues that need to be addressed. For example, the capacity of the system to handle voluminous or oversized documents, such as summary judgment records or plot plans, has not been determined. Attorneys are advised that they may encounter file-size limitations imposed by their own internet service providers, as well as by the county's servers and the e-filing software, that could affect the timely filing of documents. The computer system requirements for e-filing have not been finalized, but attorneys should anticipate that they will need the ability to create and transmit documents in PDF and/or TIFF formats.

Further, there are outstanding legal questions. Procedures for handling e-filing disputes and filing errors

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President's Message

# Laurel Legal Needs Our Support

by John K. Greiner, Esq.

The decline in our economy has had many effects on our community, one being a significant reduction in resources available to represent low-income individuals and families in civil legal matters. Laurel Legal Services, Inc., established in 1967, provides free legal services to low-income clients in Westmoreland, Cambria, Indiana, Jefferson, Armstrong, and Clearfield Counties.



Traditionally, Laurel Legal Services has provided representation in divorce, custody, landlord/tenant, debtor's rights, social security disability, disputes with utility services, and protection from abuse.

Federal and state reductions in funding have significantly trimmed Laurel Legal's budget, and, simultaneously, less funds are available through IOLTA, causing a reduction of attorneys and support staff. Recently, its office in Jefferson

County was closed, and the budget for 2013-2014 reflects even lower levels of funding.

Remarkably, the Commonwealth of Pennsylvania Access to Justice Fund requires that Laurel Legal Services provide representation in protection from abuse cases to any person, regardless of the client's income level, compelling Laurel Legal to represent clients in PFA cases who would not otherwise qualify for free legal services. During the first quarter of 2013, approximately 400 cases were handled by the Greensburg office; 80% of these were PFAs. This curtailed Laurel Legal's ability to serve clients in divorce, custody, landlord/tenant, debtor's rights counseling, or to provide legal assistance with utilities.

Laurel Legal Services is struggling to find solutions to the problems caused by limited financial resources. One way is to reach out to attorneys and ask them to consider making a financial contribution to Laurel Legal Services. In addition, Laurel Legal Services is asking for attorneys to donate their time to assist in representation of clients in protection

from abuse cases on a pro bono basis to help reduce the PFA caseload of the staff attorneys. Laurel Legal Services is also securing law students to provide representation in protection from abuse cases and volunteer attorneys are needed to supervise and mentor these law students.

By reducing the number of Laurel Legal's PFA cases, their staff attorneys will be able to represent indigent clients in other areas of law in which representation is not currently available. Please consider a financial donation and/or volunteering your time to help Laurel Legal Services meet the needs of the indigent during these challenging times.

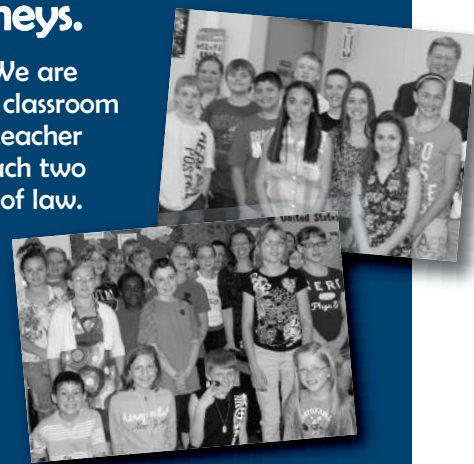
WBA member Mark Sorice is the current president of the board of directors of Laurel Legal Services. Contact Mark or Laurel Legal Services Executive Director Cynthia Sheehan to offer your assistance, or for additional information. 🐾

## The WBA is continuing the Civics Education pilot project for fifth graders and we NEED Volunteer Attorneys.

It is our intention to double our program for this year to 24 classrooms. We are in need of additional attorneys, who will be matched with a fifth-grade classroom for the 2013-14 school year. Each attorney will work with their assigned teacher to schedule two classroom visits in the fall, and again in the spring to teach two specific lessons designed to focus on democracy, citizenship, and the rule of law.

The lesson plans have been carefully selected to be grade-appropriate and interactive. They have been used by the Pennsylvania Bar Association in other civics education programs throughout the state and we feel comfortable in using them with fifth graders.

**If you are interested in participating, please let the WBA office know ASAP by calling 724-834-6730 or by e-mailing [westbar.org@westbar.org](mailto:westbar.org@westbar.org).**



{ c o m m e n t a r y }

# An Erosion of the Law

There have always been offenders—those who, motivated by personal gain or animosity, choose to ignore laws—but they are not limited to what people in the nineteenth century would have called “the criminal class.” Today we are seeing the emergence, or perhaps a reemergence, of a troubling phenomenon: office holders who choose not to enforce a law because it is not to their liking.

In a July address to members of the Pennsylvania judiciary, Dr. Paul Finkelman of Albany University Law School spoke about Lincoln and the Emancipation Proclamation. This topic would seem to be more of historical interest than the usual judicial seminar, but it was an extremely well received history lesson, which provided some insight into a conflicted office holder—who happened to be the president—and how he honored the rule of law.

The conflict, of course, involved the most divisive social issue of that century: emancipation, and the existing laws which supported slavery. That Lincoln opposed slavery was not news, then or now. Most of the eleven states which left the Union to form the Confederacy cited the threat of abolition, posed by his election, in their secession proclamations; for the sixteenth president’s belief in abolition was strongly held and of long duration.

In 1849, during his one term in Congress, Lincoln drafted a bill to abolish slavery in the District of Columbia, but refrained from introducing it when it became clear that there was not sufficient support from other members for it to pass. Eleven years later, during the Lincoln-Douglas debates, he would famously say, “If slavery is not wrong, nothing is wrong.”

A year after he took office as President, Congress passed and he signed the District of Columbia Emancipation Act, freeing some 3,100 slaves with monetary compensation to their former owners. He did this certainly without compunction, since the capital was a federal enclave and Congress was its legislative body. His personal commitment

to abolition, however, did not overcome his lawyer’s respect for the rule of law, so he refrained from any action which would interfere with state laws permitting slavery in the border states of Delaware, Maryland, Kentucky, and Missouri, or any other state remaining loyal to the Union; though it is likely true, that had he done otherwise, he might have driven the border states into joining the Confederacy.

As for those states in rebellion, however, it was different; for by seceding they had placed themselves beyond the pale of the rule of law. Waiting for a respectable showing by federal forces, which came in the battle of Antietam in September 1862, Lincoln issued his famous proclamation which abolished slavery only in the rebellious states. And as unlikely as it was to occur, it gave those states a 100-day window during which they could nullify abolition by returning to the Union.

The proclamation, first and foremost, was the exercise of a war power, and was issued by the president, “by virtue of the power in me vested as Commander-in-

Chief of the Army and Navy of the United States in time of actual rebellion ... as a fit and necessary war measure for suppressing the rebellion.” Throughout, Lincoln never turned a blind eye to lawfully enacted statutes of states remaining in the Union, no matter how much he disagreed with the purpose of those laws. He recognized that only a constitutional amendment would have the power to fully abolish slavery.

The Great Emancipator also recognized that suppression of ideology and personal beliefs by those charged with upholding existing law is one of the strengths of our system. We know today that judges often find the application of a statute to a given set of facts an unpleasant duty, and members of the bar will undertake the representation of clients who were engaged in a cause which the lawyer would personally disdain. Yet, we learn of officials on different

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**“What could be more unequal than authorities choosing which laws will, or will not, be enforced, based upon their individual personal preferences?”**

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# An Erosion of the Law *continued from page 3*

levels of government refusing to enforce laws which they find inconsistent with their personal beliefs. Assuming the correctness of those beliefs doesn't make their decision to ignore existing law less harmful, for they may be followed by others whose motivations may be malignant.

There is no denying, that notwithstanding the high principles on which our country was founded, we have had our share of bad laws. "Bad," however, is a subjective description, which means there is often room for disagreement. Laws often outlive their usefulness, or the drafters may have failed to recognize at the time that the cost, inconvenience or harm from enforcement would outweigh the benefit of their legislation. Nonetheless, the remedy is either remedial legislation, or a challenge to the law in the courts. But that requires patience, and our society has become an impatient one, insisting on gratification without all that delay.

Our history of nonviolent civil disobedience can't be ignored, for it has at times spurred both processes, often with salubrious results. But such action is ennobled only by the actor's willingness to accept as a cost, for the advancement of his cause, the penalty conferred by the law opposed. For office holders to conclude simply that they won't enforce existing law, because they disagree, without any personal consequences, is a meaningless imitation of civil disobedience. To paraphrase Gandhi, if the magistrate finds the law unconscionable, he has a moral duty to resign his office

rather than enforcing it. We see none of that today by office holders who claim with nullification that they are coming down on the right side of history.

Allowing authorities to pick and choose which laws they will apply will have a corrosive effect. In his book, *Why People Obey the Law* (Yale University Press, 1990), Tom R. Tyler cites a study which concluded: "the perception of unequal treatment is the single most important source of popular dissatisfaction with the American legal system."

What could be more unequal than authorities choosing which laws will, or will not, be enforced, based upon their individual personal preferences?

## { commentary }

Our profession calls us to acknowledge all laws, whether they appeal to us or not, and we believe that our bench and bar have answered the call in exemplary fashion. We perhaps have kept in mind a scene from Robert Bolt's play, *A Man for All Seasons*, where Thomas More, Henry VIII's Lord Chancellor, is urged by his son-in-law, William Roper, to ignore all laws and arrest a protagonist, who has committed no crime, but may do More harm. More replies: "And when the last law was down, and the Devil turned around on you—where would you hide, Roper, the laws all being flat? This country's planted with laws from coast to coast—man's laws, not God's—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil the benefit of the law for my own safety's sake." 🐼



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# Remembering Robert I. Johnston

*Editor's note: Robert I. Johnston died Saturday, April 27, 2013. Preceded in death by his brother, Ronald, and his stepson, Scott Austin, Bob is survived by his wife, Jacque; son, Adam, and wife, April, of Monroeville; granddaughter, Taylor Austin, and grandson, Dylan Austin, and their mother, Wendy Austin Lysaght; granddaughter, Brooke Johnston; mother-in-law, Rose Barron, of Pittsburgh; brother, James Johnston (Gail), of Cleveland, Ohio; sister, Linda Higby (Doug), of Meadville; and numerous nieces and nephews. Memorial contributions may be sent to The Institutes for the Achievement of Human Potential, 8801 Stenton Ave., Wyndmoor, PA 19038.*

by John K. Greiner, Esq.

I've had the honor of being Bob's friend, his law partner, and having practiced with Bob for the better part of 24 years. In the past months, you've heard or read much of Bob's seemingly unending professional accomplishments. But I believe that we would be remiss if we didn't talk about the manner in which Bob's legacy was an inspiration which will not end with his passing.

There's no one anecdote to describe Bob. There are adjectives, however: bright, deliberate, tenacious, patient, loyal, caring, dedicated, faithful, and emotional. But without a doubt, the most descriptive adjective for Bob is purposeful. He had purpose driven by a morality that most of us have only read about. Every legal, business, and personal dilemma put before him was resolved only after a thorough contemplative thought process ending with a decision of how Bob could influence the outcome in a manner that left everyone better off, often at great personal unspoken sacrifice to himself.

In April of this year, Peggy Tremba and I visited Bob at St. Anne's. Jacque was at his side. Ever so gently he told us again of his plans to retire. He told us for the last time that he was dying. Bob told us many times during his five-year illness that he accepted his illness and he was very much aware of the closeness of death. He was, quite frankly, much more fearful of becoming a burden to his family, of doing a disservice to his clients,

or of letting his partners down than he was of dying. So each time he talked about leaving the practice, we did what any good lawyer would do. We argued with him. And we continued to argue with him until the night before he passed away.

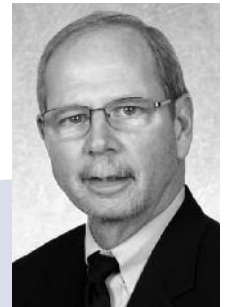
Our firm inherited from Bob his deliberate purpose for life and his contemplative thought process. We had much success just in the last

**“Without a doubt, the most descriptive adjective for Bob is purposeful. He had a purpose driven by a morality that most of us have only read about.”**

24 months of his career, countless families whose lives were changed for the better because Bob found the strength to continue to pursue his passion to influence the outcome of their lives. He left them better off for having met him, all at great sacrifice. It would be most important for Bob to know that he did influence the outcome of their lives, our lives, and his own life.

So our lives as lawyers were the last to be directly enriched by his professional legacy, and for that we will be forever grateful. It occurred to me that we may have failed to thank him for this legacy. So I'd like to take the

opportunity to do that now. Bob, as we look back at our time with you, we find ourselves wondering, did we remember to thank you? For all that you've done for us? For all the times that you were by our sides? For helping and supporting us, for celebrating our successes, and understanding our problems, for accepting our defeats, and teaching us by your example the value of hard work, good judgment, purpose, courage, integrity, patience, and deliberation? We wonder if we ever thanked you for the sacrifices you made so that each of us could be our very best. And for the simple things like your laughter, smiles, and the good times that we shared. If we've forgotten to show our gratitude enough for the things you did, we are thanking you now and we are hoping that you knew all along how very much you meant to us. 🌻



▲ Bob Johnston

by Jay N. Silberblatt, Esq., Silberblatt Mermelstein, P.C.

I got to know Bob through my work with the PBA Professional Liability Committee. Bob was a past-chair of the committee. Although Bob's involvement with the Professional Liability Committee pre-dates mine, I believe that he and Reg Belden were responsible for creating and producing the first of the PBA's annual Avoiding Legal Malpractice programs.

I am sure you know how important Bob was to the Professional Liability Committee. In many ways, he was always the voice of reason and the glue that held all of our programs together. For many years, Bob was the voice on the other end of the PBA Hotline, the

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# Remembering Robert I. Johnston *continued from page 5*

phone line that lawyers could call when they needed someone to talk to about potential problems in their practices.

About ten years ago, as I became more active in the Committee and took on the task of creating the annual Avoiding Legal Malpractice Seminar, I would always run all my program ideas past Bob before “going public” with them. He would always review the scripts for each vignette and offer suggestions for improvements. He had a keen theatrical eye and always enjoyed acting in our program each year. We had some very fun times filming the programs over the last 10 years and Bob’s appearances in each were always informative and enjoyable.

This past year, Bob played “August Weston” in the program “August’s Osage Bounty.” He really enjoyed these forays into the theatrical world. I still remember him showing up one year to play the part of a crusty

defendant in a personal injury lawsuit—he wore a John Deere cap and a T-shirt that bore the logo of “Stinky’s Trash Collection.” Of all the “actors” that we used, Bob was the only one who ever learned his lines in advance.

In addition, Bob was always our “Phil Donahue” at the Professional Liability CCBL program. We would give him a wireless microphone and he would roam through the audience discussing the topics and drumming up questions and comments. Our CCBL program will never be the same without Bob.

And, more than anything, I will miss his company on our many rides to Harrisburg or wherever for PBA meetings. I would often pick Bob up at his home in Greensburg and we would ride together (often with Jim Schadel) to PBA meetings. His favorite was to drive for awhile and then stop for a meal at the Jean Bonnet Tavern outside Bedford.

Another thing that Bob and I had in common was that we were both alums of Allegheny College. And, he was proud that his son attended Allegheny as well. Bob enjoyed telling stories of his days in Meadville and how he was not much of a student. Yet, he rose to be one of Westmoreland County’s preeminent trial lawyers.

Bob was always a gentleman. In spite of his hard-held beliefs, he was calm and never roused to anger, unlike so many trial lawyers. He could out-finesse and out-talk anyone in the courtroom, or at a PBA seminar.

Shortly after I finished creating the 2013-14 PBA Avoiding Legal Malpractice Program, we had a training session at PBI headquarters in Mechanicsburg for the lawyers who will present this program in all 67 counties of Pennsylvania over the upcoming year. For the past many, many years, Bob was my constant companion in the development,

creation, and teaching of this program. This year, I felt nervous and helpless without Bob. I have not had the benefit of his guidance this year and so I have fears about the quality of the program. I missed him terribly as I drove to Mechanicsburg and the Professional Liability Committee will miss his influence as the new program is unveiled. 🍷

*by John Miles, USI Affinity*

Although it would be easy to note Bob’s genuine interest in any aspect of your life that you were willing to share with him, the most remarkable aspect of Bob was his ability to perform exceptionally as both “the Lone Ranger” and as “Tonto.” During his years with Reg Belden, Bob served patiently and competently in Reg’s shadow. After we lost Reg, Bob stepped forward as his own version of the Lone Ranger. As a supporting character, he was the best; yet when circumstances changed, he showed that he was just as capable as a leader as he had been as a follower. Bob was a leader, a follower, and a friend. We are poorer without him; God is now richer. 🍷

*by Michelle Logan, USI Affinity*

I was lucky enough to work with Bob for several years, first as a part of the Belden firm and through his transition into Tremba & Jelley and his various roles on the PBA Insurance Trust. Bob’s understanding of the nuances of the Professional Liability policy was invaluable to the legal and insurance industry. He was the biggest advocate for the members of the PBA and I learned so much from him through the years about integrity and law firm management. He was one-of-a-kind, especially when it came to acting on the annual ALMS seminars—a class act all the way. He will never be forgotten. 🍷

## E-Filing

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have not been developed by the Prothonotary, and she is investigating whether it is necessary to modify the Local Rules to implement the system and her policies. Another matter under consideration is whether *pro se* parties will be permitted to use electronic filing.

Because the system will be voluntary and locally controlled, the Prothonotary’s proposal should allay the concerns of attorneys who are wary of the technical and procedural issues that could arise with e-filing. Electronic filing would offer many advantages to those who practice in Westmoreland County, and the current proposal provides the bar with the opportunity for a painless transition from paper to digital practice. 🍷

July 2013 Civil Trial Term

# Jury Trial Verdicts

by Beth Orbison, Esq., Thomas L. Jones, Esq., and Monique J. Lafontant Mears, Esq.

**O**f twenty-five cases listed for the July 2013 Civil Jury Trial Term, five settled, fifteen were continued, and five jury trials were held.

**ROBERT D. SHEPLER AND  
JUANITA L. SHEPLER  
V.  
BEVERLY L. SEYBOLD  
AND COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT  
OF TRANSPORTATION  
NO. 5106 OF 2010**

*Cause of Action: Negligence—Personal Injury—Automobile Accident*

A two-vehicle automobile accident occurred on October 11, 2008, at the intersection of State Route 982 and State Route 2027, known as Charles Houck Road, in Unity Township.

Plaintiff Robert Shepler was the driver, and his wife, Plaintiff Juanita Shepler, his passenger, in a 2002 Ford Explorer. Defendant Beverly Seybold was operating a 2007 Chevy Tahoe. Plaintiffs alleged that Defendant Seybold was operating her vehicle at a high rate of speed. Plaintiffs further alleged that the intersection did not have the proper site distance requirements and therefore, PennDOT was negligent in its failure to improve the safety of the intersection. Plaintiffs requested monetary damages for their serious and debilitating injuries.

Defendants' cross-claim alleged that Plaintiff/driver was negligent by failing to observe Defendant Seybold's vehicle when he entered the intersection from a stop sign.

*Plaintiff Robert Shepler's Counsel:* Thomas E. Crenney, Thomas E. Crenney & Assoc., LLC, Pgh.

*Plaintiff Juanita Shepler's Counsel:* Alicia R. Nocera, Thomas E. Crenney & Assoc., LLC, Pgh.

*Defendant Seybold's Counsel:* Dwayne Ross, Latrobe



*Defendant PennDOT's Counsel:* Brian Baxter, Senior Deputy Atty. General, Pgh.

*Trial Judge:* The Hon. Anthony G. Marsili

*Result:* On Plaintiffs' claim, verdict in favor of Plaintiff/Wife in the amount of \$900,000.00, plus \$100,000.00 for loss of consortium. On Defendants' cross-claim against the Plaintiff/Husband, verdict was solely against Plaintiff/Husband.

**JOSEPH J. YURIGAN, JR.  
V.  
ANTHONY DISAIA  
NO. 9290 OF 2010**

*Cause of Action: Negligence—Personal Injury—Automobile Accident*

A two-vehicle accident occurred on December 31, 2008, at 7:00 p.m. Plaintiff was operating his 2007 Chevrolet truck easterly on Route 30 toward Georges Station Road in Hempfield Township. Defendant Anthony Disaia was

operating his 1993 Bonneville vehicle in the same direction, immediately behind Plaintiff's truck. Plaintiff alleges that his truck was at a complete stop when the Defendant's vehicle struck him from behind.

Plaintiff seeks monetary damages for his injuries, which led to cervical herniated disc surgery approximately two years after the date of the accident. Defendant admitted liability, but contested the causal connection between the surgery and the collision.

A summary jury trial was conducted. (A jury in a summary jury trial consists of eight individuals; agreement by at least six of the eight jurors constitutes a verdict.)

*Plaintiff's Counsel:* Carl Schiffman, Pgh.

*Defendant's Counsel:* Laura Signorelli, Pgh.

*Trial Judge:* The Hon. Anthony G. Marsili

*Result:* Verdict in favor of Defendant.

**DISCOVER BANK  
V.  
MARGARET L. PAULONE  
NO. 3116 OF 2009**

*Cause of Action: Breach of Contract—Unjust Enrichment—Credit Card Debt*

Plaintiff filed a Complaint alleging that it entered into a contract with the Defendant for the issuance of a Discover Bank credit card in January 2005. Defendant used the credit card to purchase goods, services, and merchandise, and to take cash advances. Defendant made periodic monthly payments on the account, until sometime after October 9, 2008, at which time no further payments were made. Defendant sought payment of the balance due of \$16,155.00, plus interest at the

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**did you know?**

**Westmoreland County Civil Jury Trial Verdicts from 2000 to the present are available online at [www.westbar.org/verdicts](http://www.westbar.org/verdicts).**

## Jury Trial Verdicts *continued from page 7*

rate of 6% per annum and attorney's fees of \$1,500.00. In addition, Plaintiff proceeded against the Defendant on the alternative theory of unjust enrichment.

Defendant cited many instances in which she believed to have been unfairly or unjustly charged for services, and contended that Plaintiff acted unconscionably in dealing with those disputes. She also claimed to have paid the balance due, but was unable to present evidence to support that claim.

*Plaintiff's Counsel:* Ashley L. Sweeney, Weltman, Weinberg & Reis Co., L.P.A., Pgh.

*Defendant's Counsel:* Defendant was unrepresented.

*Trial Judge:* The Hon. Richard E. McCormick, Jr.

*Result:* Verdict in favor of Plaintiff in the amount of \$14,300.00.

**NANCY P. STEWART**  
V.  
**ADAMS MEMORIAL LIBRARY AND**  
**J.J. HAUSER AND SONS, INC.**  
**NO. 7865 OF 2008**

*Cause of Action:* Negligence—Personal Injury—Slip and Fall

On August 10, 2006, Defendant Hauser was engaged in construction work at the Adams Memorial Library in Latrobe. As Plaintiff was exiting the library, she claims that she tripped over an extension cord that was being used by Defendant Hauser, and fell face down onto a concrete stoop at the entryway. As a result of the fall, she suffered a right orbital floor fracture with slight muscle imbalance in the right globe, which required surgery.

Plaintiff sought damages against both Defendants, however, prior to trial, Defendant Library entered into a Joint Tortfeasors Release with Plaintiff and did not appear at trial. Defendant Hauser denied that the extension cord was a factor in causing the Plaintiff to fall. Accordingly, the focus of the trial was on liability rather than damages.

*Plaintiff's Counsel:* Kenneth R. Behrend and Kevin Miller, Pgh.

*Defendant's Counsel:* Dennis J. Slyman, Gbg.

*Trial Judge:* The Hon. Richard E. McCormick, Jr.

*Result:* Verdict in favor of Defendant Hauser.

**ROBERT J. HUDSON, JR.**

V.

**CHARLES EVERLY**  
**NO. 6473 OF 2009**

*Cause of Action:* Negligence—Personal Injury—  
Motor Vehicle Accident

On October 30, 2007, Plaintiff, a dentist, was operating his motor vehicle in the right lane of travel on Route 30 East in Latrobe, at or near the intersection of Mt. Laurel Plaza. Defendant attempted to enter Route 30 East from a Sunoco A Plus gas service station adjacent to Route 30, by crossing the closed right eastbound lane of travel. As he entered the second eastbound lane of travel, his vehicle collided with Plaintiff's vehicle. Plaintiff alleged that Defendant negligently operated his vehicle by failing to yield the right of way to eastbound traffic on Route 30 and striking Plaintiff's vehicle.


Due to the collision, Plaintiff claimed he sustained a C5-6 disc herniation with numbness and tingling down his right arm to the elbow. He underwent an anterior cervical discectomy and fusion with plating at the C5-6 level of the cervical spine. After returning to work, Plaintiff allegedly continued to experience numbness, tingling, and itching down his right arm to the elbow. This condition compromised his ability to perform dental procedures that he could perform prior to the accident. As a result, he claimed he sustained a substantial loss of income.

Defendant argued that Plaintiff's negligence caused the accident. Defendant maintained Plaintiff passed his vehicle and then made an improper right lane change with the passenger's side of Plaintiff's vehicle striking the driver's side front corner of Defendant's vehicle. Defendant asserted the accident was very minor and that both vehicles were drivable after the accident. Defendant argued Plaintiff had a long and significant medical history consisting of pre-accident problems with his feet, lower back, hips, hands, rib, elbows, neck, and chest. As a result of the accident, Defendant maintained Plaintiff suffered nothing more than a mechanical lateral rotation stretch injury and that he did not suffer any net economic damages.

*Plaintiff's Counsel:* Raymond J. Seals, Pgh.

*Defendant's Counsel:* Scott O. Mears, Jr., Mears, Smith, Houser & Boyle, P.C., Gbg.

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

*Result:* Molded verdict in favor of Defendant. 

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# Spotlight on Moe Lewis



**Q WHAT JOBS DID YOU HAVE BEFORE BECOMING A LAWYER?**

**A** My first job was caddying at the Greensburg Country Club. When I was 16, I started as an apprentice glass cutter at American Window Glass Company in Jeannette, and worked there in the summers until I graduated from law school.

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

**A** One of the funniest things happened when I was working in the District Attorney's Office. I was prosecuting a robbery case. I asked the arresting officer, on direct examination, if he could positively



identify the Defendant as having been at the scene of the crime on the night in question. He replied that he could and explained that he had been about one block away from the Defendant when he made his identification. When I asked him if the area had been well lit that night, he responded that it "had been pretty dark." I then concluded my direct examination.

Feeling very confident, the defense attorney jumped up to begin his cross examination. Unfortunately, he did the one thing all lawyers are warned not to do: He asked a question without knowing the answer.

"Officer," he began, "How could you possibly identify the Defendant if it had been, as you described, 'pretty dark that night?'"

The officer responded without hesitation, "I'd recognize my cousin anywhere."

The jury came back with the fastest guilty verdict I ever had.

**Q WHAT QUALITY DO YOU MOST LIKE IN AN ATTORNEY?**

**A** Integrity. I also appreciate congeniality and mutual respect, but integrity ranks as No. 1.

**Q WHAT HAS BEEN YOUR FAVORITE JOURNEY?**

**A** My favorite journey was to the Bahamas for my honeymoon. We liked it so much that we went back the following year.

**Q WHAT IS YOUR GREATEST REGRET?**

**A** Honestly, I have no regrets. I have had a wonderful marriage, four great daughters, and thirteen grandchildren.

*continued on page 10*

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**Duke George**



**Daniel Joseph**

# Spotlight on Moe Lewis *continued from page 9*

## Q WHO ARE YOUR HEROES IN REAL LIFE?

A There are three men who I consider to be my real-life heroes: the late Congressman John Dent, Tom Anton, and Patrick McCague.

Because of my academic success in high school, I wanted to pursue my undergraduate degree at the University of Pittsburgh; however, my family couldn't afford to send me. Recognizing this, Congressman Dent granted me a Senatorial Scholarship that covered my tuition.

When I graduated from law school, there were two requirements for admission to the bar: passing the bar exam and completing a six-month preceptorship with a practicing attorney. My preceptor was President Judge O'Connell. While Judge O'Connell was very helpful, his law clerk, Tom Anton, became my mentor.

As a young lawyer practicing criminal law, I sought advice from Patrick McCague, who took me under his wing. His advice was particularly helpful as, in those days, you never knew when a member of the court's staff would come out of the courtroom, grab your arm and say, "There's somebody in here who needs a lawyer."

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

A Don't be afraid to seek help and assistance when confronted with something new or different so as to serve your client's interest.

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

A The best advice I ever got is to be honest and truthful, even when it hurts.

## Q WHAT DO YOU CONSIDER YOUR GREATEST ACHIEVEMENT?

A I don't know if this was attributed to me, but when I was president of the

Bar Association, I gave a speech in which I called for the creation of a Public Defender's Office based on merit and years of experience. I believed that the most qualified for the job were those attorneys who gained their experience through trial by fire, as I had as a young lawyer when I was grabbed in the hallways and assigned to represent criminal defendants.

## Q WHEN AND WHERE WERE YOU HAPPIEST?

A I clearly was the happiest when I was in the Bahamas.

## Q WHAT IS YOUR MOST TREASURED POSSESSION?

A My most treasured possessions are two books: one autographed by the late Cardinal Mindszenty and the other written by Maria Von Trapp and autographed by Julie Andrews.

In our travels to Austria and Hungary, Al Nichols, Louis Ceraso, and I met Cardinal Mindszenty, who graciously gave us an audience, allowed us to take pictures, and gave me his autograph.

I also had the opportunity to meet the late Maria von Trapp, who was featured in my favorite movie, *The Sound of Music*. I was asked to escort her through a crowded audience that had come to hear her speak at Idlewild Park. Later, she wrote a book that I purchased and took with me to a School Board conference where Julie Andrews, who had played her

in *The Sound of Music*, was giving a speech. I met her afterwards and she autographed Maria's book.

## Q WHAT IS IT THAT YOU MOST DISLIKE?

A I most dislike anyone who abuses children or takes advantage of the elderly.

## Q WHAT IS YOUR GREATEST EXTRAVAGANCE?

A According to my wife, my greatest extravagance is dining out.

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

A The talent that I would most like to have would be my father's ability to read cards in a poker game. I learned of my father's ability when, one day, I asked his friend if he knew how my father could afford memberships at Greensburg Country Club, Jeannette American Legion, and the Elks on an annual salary of \$10,000.

He said, "I can tell you. Your father can read cards in a poker game better than anybody I ever met." (He admitted that he was always very careful about getting into a game that my father was in.)

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

A I value my friends' loyalty and mutual respect and support.

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

A I really enjoy teaching. When I started in private practice, I taught two years in a business school. I would have continued teaching, but my practice grew too big and I had to give it up. It was a great experience. I try to be involved in Law Day annually in order to talk to students again and answer their questions regarding various legal issues. 📚

## LawSpeak

"Laws are like spiders' webs which, if anything small falls into them they ensnare it, but large things break through and escape."

— Solon, quoted by Diogenes Laertius in *Lives of the Philosophers*

# To-Wit: Alone and Palely Loitering

by S. Sponte, Esq.

They were the first words out of her mouth. “Where’s your briefcase?” she declaimed, clearly taken aback that I had shown up empty-handed. They were also the last words out of her mouth; during the remainder of the closing she said nothing.

As legal matters go, it was simple enough, she was selling her residence; but as life matters go, it was not so simple. The parcel of more than seventy-five acres she was selling had been her family homestead for almost two hundred years, and the transaction had, for her, a portent far beyond the mere signing of papers.

And here I had had the temerity, the chutzpah, to show up as her representative on this auspicious occasion without any briefcase or papers to signify that the passage of her familial estate to strangers was worthy of commemoration.

There had been no pragmatic need for me to bring anything to the closing. As attorney for the seller, all I had to do was prepare the deed; I had done that and circulated it by e-mail

**“Papers matter because we do not deal in bricks and mortar. We are not architects of buildings, we are architects of thought, and sometimes the stuff of heads is a hard sell, even to us.”**

to all concerned well in advance, provided you consider my sending it off by smart phone while driving to the closing to be well in advance.

The title company had prepared all the other documents for closing, so

there was nothing for me to bring along but me. Nonetheless, I could sense my client’s extreme disappointment that I had arrived naked of accoutrements

save for a head which contained, however lacking in obviousness, both a complete understanding of this legally simple transaction and four decades of experience.

From my client’s perspective, however, these things, unadorned by documents and a suitable leather wrap, signified nothing beyond a silent declaration that this momentous event in her life warranted not so much as a single shred of paper *mit* cowhide to mark its passage.



*continued on page 12*

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# To-Wit: Alone and Palely Loitering *continued from page 11*

Papers matter because we don't deal in bricks and mortar. We are not architects of buildings, we are architects of thought, and sometimes the stuff of heads is a hard sell, even to us. Maybe that's why so many lawyers risk hernia after hernia unnecessarily dragging immense files to deposition after deposition, particularly when laptops and iPads do the same job without the attendant medical hazards. That weight sometimes may be the only way we remind ourselves that our work has substance.

It is an unfortunate truth that clients take far more comfort from a massive assemblage of tree detritus, with its infinitely greater corporeality, than they do from any thoughts contained thereon. That a brief may be brilliant is of no never mind, that thoughts and ideas outlast buildings no palliative, to a client wanting more from his investment than merely the sort of ethereal intellectual skeletons that have carried civilizations on their backs for eons.

As we departed the building post-closing, I walked my client back

to where my car was parked. There, palely loitering on the passenger seat, lay an old, withered briefcase of mine, a remnant of many other battles and currently over-stuffed with the paperwork of another client's latest disarray.

"That's YOUR file," I said, pointing with one finger while crossing some others, "right there."

She smiled, obviously relieved, and thanked me for all my good work. With that she walked off to her newly altered life, not only restored to her belief that she had received something of benefit for the hiring of me, but now with the paperwork to prove it. 🍀

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*Westmoreland Revisited*

*Dr. Johnson, et al., v. The Ligonier Valley Rail Road*

# Litigation in the Wake of the Wilpen Wreck of 1912

*by The Hon. Daniel J. Ackerman*

Wilpen is a little over four miles northeast of Ligonier—today an easy nine-minute drive, for the most part, on Route 711. In 1912, however, it



▲ *The Hon. Daniel J. Ackerman*

was not that easy, and access to the town, which was home to the Shenango Furnace Company's Wilpen Mines and Coke Works (there were twenty-three mines and five coke ovens in the immediate area), from Ligonier was best achieved by rail.

To J.B. Johnson, among others, the service provided by the Ligonier Valley Rail Road was a blessing. For this Ligonier physician, it facilitated house calls upon his patients living in Wilpen.

## A FATEFUL TRIP

Freight was the main business of the railroad, and the freight was primarily coal. But passenger service was also provided by the railroad's single passenger car. Two trains utilizing this car left Ligonier for Wilpen daily, one at 6:40 a.m., the other at 3:20 p.m.

On the afternoon of Friday, July 5, 1912, Dr. Johnson, black bag in hand, entered Ligonier's two-year-old station, a massive and ornate terra cotta building which was made to look like marble, and boarded an unusually crowded car bound for Wilpen. Just as today, the days before and after a holiday generated an increase in travelers, so the car had more than the usual number of families returning home after celebrating Independence



▲ *On Friday, July 5, 1912, two trains collided head-on between Ligonier and Wilpen. Twenty-three people were killed and thirty were injured. W.T. Brown, of Ligonier, took a number of photos conveying the extent and essence the wreck. Photo courtesy of the Ligonier Valley Rail Road Association.*

Day away with relatives and friends. Dr. Johnson, however, was not the only one who viewed the trip as part of his workday: Dr. C.A. Hamill, who likely boarded the train at the line's western terminus in Latrobe, was also on board for the same purpose—to see patients in Wilpen. As they exchanged greetings, neither could have imagined that within the hour they themselves would be in dire need of medical treatment.

They pulled out of the station on schedule. Lacking the means to turn the rolling stock around, the passenger coach on this run was pushed into the lead position by the locomotive which was operated in reverse. Those aboard, and those sending the train north, were oblivious to the fact that a southbound freight, which usually appeared in Ligonier by noon, had not arrived. It had been stalled by the

derailing of a wheel on one of its two engines, and its conductor had placed a telephone call to the Ligonier station at 3:10 p.m. requesting that the passenger train be held at the station until the freight reached Ligonier.

The two trains were now moving toward each other on the same track. Speed was not an issue; the passenger train was being operated in reverse and the freight was going about 25 miles per hour. However, any hope of averting a collision or minimizing its impact was lost because due to a bend in the roadbed, neither engineer could see the other train. In the very last seconds, the engineer of the passenger train was able to stop its forward movement, but the wooden coach—caught, as if in a vise, between its own locomotive and the two propelling the coal train—was pulverized.

*continued on page 14*

# Litigation in the Wake of the Wilpen Wreck of 1912

*continued from page 13*

## THE AFTERMATH

The tragic heart-rending stories of the survivors and victims are set forth in Bill Potthoff's interesting and informative article in *Westmoreland History*, "The 1912 Wreck on the Ligonier Valley Rail Road," but the human toll was encapsulated in a headline of the *Ligonier Echo*: "KILLED WERE 23, INJURED 30." Among the dead were the two engineers and two firemen on the freight train's dual locomotives which derailed upon impact; in the passenger coach, six children, ages one through twelve, were among the fatalities. Both the Ligonier and Latrobe hospitals were overtaxed, and nearly a score of the injured were rushed by special trains for treatment in Pittsburgh.

The press reports concerning Dr. Johnson indicated that he was in critical condition with a head injury

and internal hemorrhaging and that "little hope is entertained for his survival." He was also reported to be "one of those believed to be fatally injured." The initial reports were almost in the nature of an obituary, noting that he was an 1898 graduate of the Western University of Pennsylvania, and naming his next of kin. Subsequent reports indicated that while he was still in dangerous condition, he was recuperating at his home on Main Street. Dr. Hamill's injuries were less serious and it was noted that he was recovering at his in-laws' home in Pittsburgh.

## EFFECTING SETTLEMENTS

No tragedy fails to generate the unseemly rush to both assert and settle claims. Three days after the wreck, on July 9, the *Latrobe Bulletin* ran

the following item under the caption "Effecting Settlements."

*It is reported that an agent started in, yesterday, to try and effect settlements with the relatives of the dead, as well with those who were injured. One rumor is that a man who lost his wife in the wreck was offered a sum of slightly under \$1,000, together with the payment of expenses, if he would sign a release. It is said that he declined to sign. Circulars were distributed among some of those in attendance at the funerals yesterday afternoon, advising those who had lost relatives not to settle. It is supposed that the circulars had been sent out by attorneys, located in Pittsburgh, and making a specialty of claims against corporations.*

Dr. Johnson, untempted by settlement, became a plaintiff, filing suit in

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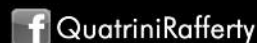


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the court of common pleas against the railroad on January 20, 1913.

In his complaint, filed by the Greensburg firm of Eicher and Eicher, he claimed damages of \$30,000. The complaint alleged that he was a paying customer of the defendant's line and that the train was operated so negligently that it collided with two freight engines which smashed his coach to pieces and caused him to be thrown from the passenger car into a mass of wreckage, causing him severe injuries. It also contended that he was compelled to undergo medical treatment for four months, was precluded from following his profession as a physician, suffered a general breakdown of his health, and lost a large part of his practice when his patients were compelled to go to other doctors.

Separate lawsuits were filed for Alice May Ritenour, Myrtle Ankney (for the death of her 35-year-old husband, John, one of the firemen), W. Miles Tosh (for the death of his father, George, of Iowa), Charles Eicher (also for the death of his father), Sarah C. Muir (the widow of Thomas Muir, age 54), Charles Kuhn (the conductor of the passenger train), and Bessie Hoon.

Alice May Ritenour, a 14-year-old nanny on board the train with three children, survived the crash but was pierced by numerous shards of glass which festered in her for two years, before she became the 24th and last fatality of the wreck in 1914.

Bessie Hoon, age 16, declined her Uncle George Tosh's offer to take his seat next to the window. Upon impact, he was killed and she fell through the splintered floor of the car onto the ground between the tracks, as coal cars passed over her. At the Greensburg Hospital her kneecap was replaced by a silver prosthesis.

Then, as now, however, settlements were the rule, not the exception. On February 28, 1913, the *Latrobe Bulletin* announced the settlement of the Muir action under the caption,



▲ These photos show the remains of the northbound passenger car after it split in half on impact with the southbound freight train between Wilpen and Ligonier on July 5, 1912. Photos courtesy of the Ligonier Valley Rail Road Association.

“Local Family Said to Have Settled Claim Against the L.V.R.R. For Sum of \$8,000.” It said:

*Mrs. Sarah C. Muir, widow of the late Thomas Muir, and her six children, have effected a settlement of their claims against the Ligonier Valley Railroad Company, growing out of the death of the husband and father in the Wilpen branch wreck.*

*They are to receive a total of \$8,000.*

*The sum is to include \$7,500 as compensation for the loss of the head of the family, and \$500 for the covering of the funeral and other expenses following upon the death of Mr. Muir.*

*The widow is to receive the sum of \$3,140, which will include the \$500 allowed for funeral expenses, \$300 representing the widow's exemption and one-third of the balance. The remainder is to be divided among the six children whose ages range from 8 to 24 years, each child receiving \$720.*

*Four of the children are minors.*

*Thomas Muir was killed almost instantly in the wreck of the Wilpen branch train, while he was on his way from Latrobe to Wilpen. His family was living to the south of Latrobe at the time. Mrs. Muir and the children still live near this place.*

*Following the wreck the family entered suit against the company for \$20,000 damages, McCurdy & McConnell being the attorneys.*

*Robbins & Wyant, the L.V.R.R.'s attorneys, and the attorneys for the plaintiff effected the settlement in the case upon the basis stated, according to an account published in Greensburg, this morning.*

The above report makes no mention of attorney's fees, but when one deducts the amounts stated for the widow and children from the gross settlement there is \$560 unaccounted for, which perhaps went to McCurdy & McConnell.

*continued on page 16*

# Litigation in the Wake of the Wilpen Wreck of 1912

*continued from page 15*

## THE TRIAL AND VERDICT

The actions brought by Johnson, Ritenour, Ankney, and Tosh were scheduled for trial in May 1913, but on May 6, they were continued to the next term of court.

On Monday, February 16, 1914, Dr. Johnson's suit, and those of Myrtle Ankney, Bessie Hoon, W. Miles Tosh, and Charles Eicher, were called for trial in the courtroom of Presiding Judge Alexander D. McConnell in the relatively new Westmoreland County Courthouse (presumably in courtroom No. 5 where the judge's portrait can be found on the Pittsburgh Street wall). Dr. Johnson's action was to be tried first, followed sequentially by the Ankney and Hoon lawsuits. Arguments on points of law took up much of the morning, and the two death actions brought by Tosh and Eicher were non-suited when these plaintiffs failed to appear for trial, possibly because they had been settled at a time when the rules did not require court approval to compromise death actions.

At this point, I should point out that the records of all of these lawsuits simply do not exist in the Prothonotary's office, or the county's records department. One can only conclude that they were expunged. All information concerning the lawsuits and the trial had to be gleaned from newspaper accounts, which focus primarily upon the Johnson case.

There is no indication of what became of the suit filed on behalf of Alice May Ritenour, but we know she eventually died of her injuries in the same year as the Johnson trial, so it is likely the claim advanced on her behalf was settled, and

the same can be said for the suit filed by Charles Kuhn.

Including jury selection and deliberation, Dr. Johnson's trial would last two days. C. Ward Eicher represented the plaintiff-doctor, and the railroad was represented by Colonel E.E. Robbins (the railroad actually had two law firms representing its interests: Robbins and Wyant, and Moorhead and Smith).

The plaintiff, in an attempt to bolster a claim for punitive damages, called Charles Kuhn, the conductor of the passenger train (who, as noted above, was also a plaintiff, in his own right), as a witness who testified that he received no orders to hold the passenger train until after the freight had arrived.

Most of the testimony dealt with the plaintiff-doctor's physical injuries. Dr. Johnson told the jury that he continued to suffer from internal

injuries and impaired hearing, all of which he believed would be permanent, and which diminished his ability to meet the demands of the medical practice, in which he had been engaged for ten years. Other physicians called on his behalf corroborated his assertion that his injuries were permanent.

On Tuesday afternoon, the defense countered with testimony from two Pittsburgh physicians who had examined Dr. Johnson and concluded that apart from a heart irregularity, they found him to be in fairly sound health. The defense also introduced in evidence a written statement from the company's former general manager, which was read to the jury, setting forth the manner in which the railroad was operated at the time of the accident. This statement was apparently admitted in lieu of calling the manager to the witness stand, perhaps upon stipulation, since it mirrored his testimony at the coroner's inquest.

Colonel Robbins made the closing argument for the railroad, and C. Ward Eicher followed in kind for Dr. Johnson. It was 5:30 p.m. when Judge McConnell completed his instructions, sent the jury out to begin deliberations, and adjourned court for the day. During the evening, the jury returned a sealed verdict, which would be opened and read in court the following morning.

The verdict placed liability upon the railroad for Dr. Johnson's injuries and awarded him damages in the amount of \$9,000 (the equivalent of a \$206,640 verdict in today's economy). Immediately, there was a flurry of activity among the

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lawyers for the railroad and counsel for the remaining plaintiffs. As a result of these conferences, the remaining plaintiffs settled their claims that morning. Myrtle Ankney settled the action arising from the death of her 35-year-old fireman husband for \$6,500 (\$149,240 today), and the suit brought on behalf of the minor, Bessie Hoon, who had her kneecap replaced, settled for \$2,800 (\$64,288 today).

The participants in this drama have all passed on. The railroad ended its 75 years of service in 1952. The Ligonier Valley Rail Road Association now maintains the meticulously restored Darlington Station which houses the Ligonier Valley Rail Road Museum with its expert displays depicting all aspects of the line's history, including the sad events of 1912.

On a personal note, I would like to acknowledge that this article could not have been written without the unselfish and diligent cooperation of Bill Potthoff, the museum's executive director, a fine gentleman and talented author, who knows more about the subject than anyone. 🍷

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**CORRECTION**

In the "Last Will and Testament of Jeremiah Murry" (the sidebar, July 2013), the first name of Jeremiah Murry's second wife was incorrectly reported as Sarah. Her name was Satiah.

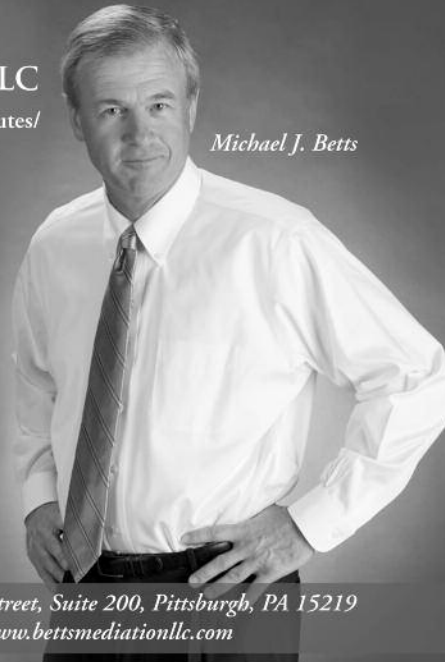
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# Letters to the Judge

Your honor, Sir,  
 You may have seen it on television, as we did. There, on the streets of one of our county's lovely small towns, were armor-clad vehicles, a little robot on wheels which climbed a curb and went on what looked like a reconnaissance mission aimed at a two-story frame house, and peace officers who looked an awful lot like a contingent of the 82nd Airborne on D-Day+1, except those paratroopers had neither flak jackets nor a little robot.

This attention was laid on an occupant inside who, according to the local paper, may have just robbed a local pharmacy, and refused to come out despite almost a day full of pleas, an application of tear gas, and finally, according to neighbors, taunts questioning his manhood. After the house was entered, we learned that the holdout had two firearms, and that he was dead and one officer was wounded. Tragic. And neither my cellmate, Jeeter, nor I, are in a position to suggest that the use of a SWAT team was not called for.

By coincidence, Jeeter, after visiting the infirmary the next day, brought back, concealed in his blouse, a July 20 issue of the *Wall Street Journal*, which he found

in the waiting room, perhaps left there by the new guy, a bookkeeper, now doing 10 to 20 months for embezzlement. In it was an article by Radley Balko, entitled "Rise of the Warrior Cop," which traced the proliferation of SWAT (Special Weapons and Tactics) teams. Jeeter was surprised that the name was an acronym, and not a verb, but both of us had a lot to learn from Mr. Balko's article.

It seems that the first of these teams was assembled in Los Angeles in the late 1960s, where, as you may recall, there were some major riots. By 1975, there were about 500 SWAT teams nationwide, and now they number in the thousands. As of 2005, 80% of the cities having a population between 25,000 and 50,000 now have one. Also, in 2005, the last year in which the collected data was reviewed, there were 50,000 SWAT-team raids.

But, your honor, you would be surprised who else has them, and how they have been used on some occasions. This is all according to Mr. Balko, and isn't some foolishness that Jeeter and I made up. For instance, the following agencies of the federal government have their own SWAT teams: the Fish and Wildlife Service, NASA, the Consumer Protection and Safety Commission,



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the Department of Interior, and the Department of Education. The latter gained some embarrassing publicity two years ago when its SWAT team corralled a woman for not paying her student loan, and was suspected of defrauding the government.

That is the government, your honor, which has given \$35 billion in law enforcement grants since 2002, much of which went toward the purchase of military-type gear (though some was free; for in 2011 the Pentagon gave away \$500 million worth of equipment to local law enforcement). Do you think when large sums are spent on military-like hardware and there is so much available that there might be some subconscious urge to use it?

Besides the loan shirker, these units have been called out in a few other cases which Jeeter and I think are unbecoming, and which Mr. Balko refers to as “mission creep.” In 2006, a Fairfax, Va., man was shot to death when confronted by a SWAT team in an investigation launched because he had been overheard at a bar wagering on college football games. Armed agents of the Fish and Wildlife Service raided the Gibson Guitar factory in Nashville on suspicion that it was using illegal hardwoods (Gibson paid a fine). In New Haven, the police sent its SWAT unit to a bar where underage drinking was the issue. And again, your honor, we are not making this up: a team in full military gear descended upon a group of Tibetan monks in 2006, because they had overstayed their visas while visiting Iowa on a peace mission.

Unfortunately, we live in a time where people feel they have a right to take to the barricades to resist any form of chastisement. And in such cases, peace officers have every right to take all reasonable measures to ensure their safety. That considered, Jeeter’s brother, who was the only one of his siblings who had gone far enough in school to take physics, told him once how home runs were hit. He said it was something called the principal of action and reaction (We looked it up, and it says: “Two interacting bodies react on each other with two forces of equal intensity along the same line, but in opposite directions”). Do you think that a similar rule might apply to confrontations? Jeeter thinks Mr. Balko is right as rain when he says, “SWAT teams have their place, of course, but they should be saved for those relatively rare situations when police-initiated violence is the only hope to prevent the loss of life.”

And oh, I should mention that Jeeter points out that there is a new fad among the irresponsible young called “swatting,” where fake pleas for help result in these units being called out to the homes of the unsuspecting, to the great danger of both the homeowners and the police.

All of this makes me nostalgic for the time, not so long ago, when an officer said, “You better come along with me,” and I did.

Your friend,  
Ricky H. Benbow, Sr. 🐾

## BRIEFLY SPEAKING



The PBA Workers’ Compensation Section presented its Irvin Stander Memorial Award to **Vincent J. Quatrini, Jr.**, during its fall meeting. The award is named in honor of the late Judge Irvin Stander and is presented to an attorney whose dedication to the administration of workers compensation law and whose professionalism and regard for clients and colleagues serves as an example to others. A founding partner and the managing partner of QuatriniRafferty, with offices in Pittsburgh, Greensburg, and Latrobe, Vince has nearly 40 years of experience in state and federal courts. He serves on the Workers’ Compensation Rules Committee, a position appointed by the secretary of the Pennsylvania Department of Labor and Industry. Vince is among the first group of Pennsylvania attorneys to be certified as a specialist in the practice of Workers’ Compensation Law by the PBA. 🐾

## Actions of the Board

### JUNE 21, 2013

- Heard report from Accountant Shanta about the 990 and the 2012 WBA review and agreed to bump up the segregation of duties for reconciling accounts.
- Voted to invite Attorney Platte Moring to speak to WBA members on Tuesday, September 17, at 6:30 p.m., and to open this event to the public.
- Approved September golf event at Totteridge beginning at 5 p.m. at a cost of \$25/golfer; the WBA will underwrite the cost of appetizers/drinks.
- Attorney Noble reported that he continues to work on a possible mediation program with family court cases; moved to support Mr. Noble’s efforts in organizing a mediation program.
- Laurel Legal Services Board Chair Sorice reported that LLS is attempting to recruit law school students to handle PFA cases under supervision of Ms. Sheehan.
- Discussed holding fund-raiser to bring awareness to LLS and raise much-needed funds. Discussed possible recruitment of volunteer LLS attorneys for PFA days.
- Accepted bids for the WBA HQ stucco repair and roof hatch installation.
- Reviewed retention results for Judge Feliciani: 96.6% favorable; press release will be circulated at next board meeting for board approval. 🐾

wba news



Westmoreland Bar Association  
 129 North Pennsylvania Avenue  
 Greensburg, PA 15601-2311

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

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## CALENDAR OF EVENTS

All committee meetings and activities will be held at the WBA Headquarters unless otherwise noted. Visit [www.westbar.org](http://www.westbar.org) for more information about activities and CLE courses, or to **register online**.

### SEPTEMBER

- 17** [CLE] FREE EVENT OPEN TO THE PUBLIC: An Evening with Lieutenant Colonel Platte B. Moring, III (Ret.), 6:30 to 8 p.m., Seton Hill University Performing Arts Center, optional substantive credits available
- 19** Elder Law & Orphans' Court Committees, Noon  
Board Meeting, 4 p.m.
- 20** The Red Mass, Noon, Saint Vincent Basilica
- 24** [PBI CLE Simulcast] Pretrial Practice Series: Setting the Ideal Stage, 12:30 to 3:45 p.m. *Register through PBI.*
- 25** [CLE] A Review of Recent United States Supreme Court Civil Rights Decisions, Noon to 1:15 p.m., 1 optional substantive credit available

### OCTOBER

- 1** [PBA CLE] Malpractice Avoidance, 10:00 to 11:00 a.m., and 2:00 to 3:00 p.m. *Register through PBA.*
- 10** Membership Committee, Noon
- 14** Courthouse closed in observance of Columbus Day
- 15** Family Law Committee, Noon
- 17** Board Meeting, 4 p.m.
- 18** [CLE] Family Engagement in the Child Welfare System, Noon to 1:30 p.m., Westmoreland County Courthouse, 1.5 optional substantive credits available
- 28** [PBI CLE] Pretrial Practice Series: Discovery Strategy, 12:30 to 3:45 p.m. *Register through PBI.*
- 30** [PBI CLE] 17th Annual Family Law Update, 8:30 a.m. to 12:45 p.m. *Register through PBI.*

## LAWYERS CONCERNED FOR LAWYERS CORNER

- The 12-step recovery meeting, exclusively for lawyers and judges, is in downtown Pittsburgh every Thursday at 5:15 p.m. For the exact location, call Pennsylvania Lawyers Concerned for Lawyers at **1-800-335-2572**.
- LCL has a new website at [www.lclpa.org](http://www.lclpa.org). Attorneys and judges will find information on how LCL can help them, a member of their family or a colleague who may be in distress. It is confidential and easy to navigate. Visit it today.
- Lawyers Confidential Help Line: **1-888-999-1941**. Operates 24 hours a day.

# Westmoreland Bar Foundation 2012 Annual Report



Pro  
Bono

**500** clients served

**700**  
intakes

**82** volunteer attorneys

**1200**  
phone calls

**42**  
brief advice cases

**55** web intakes for service

## Income



**30,000** Laurel Legal Service grant  
**30,000** WBA donation  
**26,700** IOLTA grants  
**20,700** fundraising

**\$107,400**

total

## Expenditures



**70,771** personnel  
**9,445** office expenses  
**12,365** grant expenses

**\$83,135**

total

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## LAW DAY 2012

Classroom visits to Elementary, Junior High, and Senior high schools in May

Theme:

Martin Luther King's

**"I Have A Dream"** speech

**4,415** students  
 **55** volunteer lawyers/judges  
 **84** classrooms visited  
 **28** schools participated

## CIVICS EDUCATION

Pilot program: Volunteer attorneys visited 5th grade classrooms twice in 2012-13 to teach civics ed lessons.

Lessons:

**"Case of the Missing Puppy"**  
and **"No Pets Allowed in School"**

**260** students  
 **15** volunteer lawyers  
 **12** classrooms visited  
 **7** schools participated

## Mock Trials



**7** high schools competed  
**68** volunteer jurors  
**10** volunteer attorney coaches

## Greensburg-Salem

county and regional winner

## Scholarships

**3** law school scholarships  
**\$3,200**  
**2** college scholarships  
**\$2,000**  
**1** court reporter scholarship  
**\$500**

**\$7,700**

total

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- 1 Relocated Pro Bono to Courthouse to better serve the courts and the indigent and save money.
- 2 Began Brief Advice program to benefit attorneys and provide faster service to Pro Bono clients.
- 3 Offered "online" forms for clients seeking Pro Bono representation.
- 4 Began a pilot 5th grade civics education program with 2 visits/classroom in 2012-2013 school year.
- 5 Began distributing pro se custody packets from Pro Bono office as requested by courts.
- 6 Attended 5 senior fairs to provide information about Lawyer Referral Service and Pro Bono Program.

# Lunch & Learn

Thursday October 10th @ 12:00 PM

**Affordable Care Act and how it affects you and your clients.**



**Presented by Bob Swann of RJ Swann Insurance**

Bob has been a health insurance broker for eleven years and is certified on the Individual and SHOP Marketplace. He is also certified with various companies for Medicare sales and marketing meeting CMS guidelines.

## Topics to be discussed

**Individual Marketplace**

**SHOP Marketplace**

**Effect on business of over 50 employees**

**Effect on business of under 50 employees**

**Individual Mandate**

**Effect on Medicare Beneficiaries**

# Westmoreland Bar Association Family Engagement in the Child Welfare System\*

An accredited provider for the PA Board  
of Continuing Legal Education

— LIVE —



**1.5 Substantive Credits Available**

\*This seminar qualifies for required credits for those attorneys practicing in Dependency cases as required by Administrative Order effective January 1, 2011.

Pennsylvania uses a “Roundtable Model” to guide the flow of dependency practice and the collaboration between the Courts, the Department of Public Welfare and other relevant stakeholders.

Hosted by the training committee of the **Westmoreland Children’s “Roundtable,”** this seminar will include information about:

- Tips and Techniques for connecting with families
- Active Listening
- Motivational interviewing

Speaker: **Bob Brinker**

Family and Community Educator — ParentWise Program of Family Services of Western PA

**LOCATION:  
Westmoreland  
County  
Courthouse  
Commissioners’  
Meeting Rooms**

One (1.5) Substantive Credits are available toward your annual CLE requirements.

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

<b>Family Engagement in the Child Welfare System</b>	
<b>October 18, 2013</b>	
Name: _____	<input type="checkbox"/> Enclosed is my check made payable to the Westmoreland Bar Association.
Name: _____	<input type="checkbox"/> Bill my <input type="checkbox"/> MasterCard <input type="checkbox"/> VISA <input type="checkbox"/> DISCOVER for \$ _____ (Amount).
Attorney I.D.# _____	Card # _____
Address: _____	Expiration Date _____
	Credit Card Billing Address _____
<b>Pre-Registration Fees</b>	
<b>CLE Credit:</b>	
<input type="checkbox"/> WBA Members - \$30 per credit hour (1.5 credits = \$45)	<b>Non-Credit:</b>
<input type="checkbox"/> Non-Members - \$50 per credit hour (1.5 credits = \$75)	<input type="checkbox"/> FREE
To qualify for Pre-Registration Seminar Fees - Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, <b>by 12 pm October 17, 2013.</b>	

**Friday,  
October 18, 2013  
12:00 pm -1:30 pm  
Westmoreland County Courthouse  
Commissioners’ Meeting Rooms**

Seminar Fees:

**PRE-REGISTRATION:**

(Must be prepaid & received at the WBA office by 12 pm October 17, 2013)

**CLE Credit**

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

**Non-Credit**

**FREE**

**WALK- IN:**

**CLE Credit**

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

**Non-Credit**

**FREE**

Lunch will be provided.

[Westmoreland Bar Association](http://www.westbar.org)

129 North Pennsylvania Ave.

Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

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

For refund policy information, or if special arrangements are needed for the disabled, please contact the WBA Office at

724-834-6730, or by email at [westbar.org@westbar.org](mailto:westbar.org@westbar.org)

# Shoot

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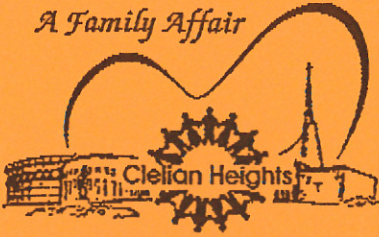


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