

Back issues from 2000 to the present and a comprehensive, searchable index are available online at www.westbar.org/thesidebar.

THE NEWSLETTER OF THE
WESTMORELAND BAR ASSOCIATION
VOLUME XXV, NUMBER 5
NOVEMBER 2013

David Millstein Named Director

Pro Bono Program Ready to Grow Under New Leadership

by Pamela Ferguson, Esq.

In his commencement address to the University of Illinois Law School 2012 graduating class, Fastcase CEO Ed Walters described the practice of law as “permanently

broken.” He blamed our profession’s demise on the “enormous gap between the supply of legal talent at high billable rates and the demand among people who need help but can’t afford it—people who are fighting fraudulent foreclosure, trying to

become U.S. citizens, working through custody issues in a divorce, trying to open a small business.”

This was probably not what the graduates wanted to hear, particularly considering their student loan debt and unfulfilled job expectations, but it was what they needed to hear.

Too many people enter law school for the wrong reasons—social status, six-figure salaries, and partnerships in prestigious downtown law firms—only to discover that it’s just a façade. Disillusioned by the practice of law, they fail to recognize that success is not measured by personal achievements or

financial gain, but by how much we help others.

Youngwood attorney David Millstein entered the practice of law subscribing to that meaning of success and has committed his legal career to helping others. As the new Director of the Westmoreland Bar Foundation’s Pro Bono Program, he is hoping that more members of our Bar will do the same. (Currently, only 10% of our Bar Association volunteer their services for the Pro Bono Program.)

While David understands the responsibilities and time constraints of becoming the first Director of the Pro Bono Program, he is eager to get started. When asked why he wants to do this

now, after forty-three years of practicing law, when he could be scaling back and enjoying the fruits of his labor, he responded, “Civil rights and the disadvantaged have been on my radar since I started practicing law. That’s why I became a lawyer. That’s what I think lawyers should do.”

Since graduating from Duquesne University School of Law in 1970, his

desire to help those who cannot afford legal representation has guided his career and philanthropic choices.

After working in Pittsburgh for two years—one year at the Federal Communications Commission and another year with the Pittsburgh firm of Hollinshead and Mendelson—David decided to return to Greensburg and open a practice with Ray Hoehler, his Hollinshead and Mendelson

associate. They remained partners for eight years, when David decided to become a sole practitioner. Fifteen years later, he invited Jackie Knupp to join him, and Millstein and Knupp, his current firm, was formed.

David has worked as an

American Civil Liberties Union (ACLU) lawyer; chaired the Pittsburgh Legal Committee; taught as an adjunct professor at the University of Pittsburgh at Greensburg and at Duquesne University, where he founded the Hugo L. Black Civil Rights Law Clinic; sat on the Board of the Westmoreland Bar Foundation (the Board responsible for overseeing

continued on page 2

“Civil rights and the disadvantaged have been on my radar since I started practicing law. That’s why I became a lawyer. That’s what I think lawyers should do.”



▲ David Millstein

Pro Bono Program Ready to Grow Under New Leadership *continued from page 1*

the Pro Bono Program); and volunteered his legal services for the Pro Bono Program.

Not willing to rest on his laurels, nor satisfied that he has done enough, David is committed to helping the Pro Bono Program meet the needs of the indigent and underprivileged in our county.

“I have two objectives as the Director,” David explained. “One, to significantly expand the number of lawyers who will accept pro bono cases by making it part of our Bar Association’s culture; and two, to create a systemized approach to taking cases, so that we can avoid unnecessary litigation and wasting our resources.” That’s not an easy task, but one David believes he can accomplish.

Envisioning a priority system similar to a hospital triage, David wants to implement a system where there will be a panel of lawyers who will meet with prospective clients in the Pro Bono office on a daily basis to determine if they actually need an attorney. He explained why a new priority system is necessary: “There are many cases currently

assigned to lawyers that don’t need to be in litigation. For example, we have custody cases where the child is not in danger and the parents aren’t fighting ... there is no need for an order, no need to waste our limited resources on a case that shouldn’t be in litigation.”

Although he believes that change is necessary to accommodate a growing clientele, David acknowledges that Pro Bono Coordinator Iva Munk, Administrative

Assistant Rita DeBlock, and the lawyers who have volunteered their services over the past twelve years have done an excellent job of meeting the Pro Bono Program’s mission of helping those who can’t afford legal representation.

“We need a significant expansion of the number of lawyers taking pro bono cases in order to meet the current demand,” David emphasized. He hopes that during his tenure as director, his vision for the future of the Pro Bono Program will come to fruition; however, he doesn’t plan on staying long. “A few years, maybe, until I get the operation where it should be. It will be the perfect transition to the end of my career.”

“Success is not measured by personal achievements or financial gain, but by how much we help others.”

G

GEORGE AND JOSEPH

ATTORNEYS AT LAW

Representing clients in Westmoreland, Allegheny, Armstrong, Butler, Indiana, Clarion, and surrounding counties



**Personal Injury
Medical Malpractice
Criminal Defense**



10 Feldarelli Square
2300 Freeport Road
New Kensington PA 15068
Phone: 724.339.1023
Fax: 724.339.3349
www.georgeandjoseph.com



Duke George



Daniel Joseph

Remembering Richmond H. Ferguson, III

Editor's note: Richmond H. Ferguson, III, passed away on Wednesday, March 27, 2013. He is survived by his wife of 52 years, Loretta Mensch Ferguson; two sons, Michael, and his wife, Pamela, and Terrance, and his wife, Meg; and five grandchildren, Kelly, Katie, Lindsey, Daniel, and Adam Ferguson.

by Mike and Terry Ferguson

Our father, Richmond H. Ferguson, III, Esq., passed away on March 27, 2013, at the age of 81. The arc of Dad's life was pretty amazing, and, we think, worth sharing.

Dad was born in 1931, during the throes of the Great Depression. His mother, Beatrice Clark Ferguson, was a nurse at Latrobe Hospital and his father, Richmond H. Ferguson, Jr., was a mill worker at Carborundum.

Like virtually all children who grew up during that era, Dad's tender years were marked with great difficulty, and at times, great desperation. Money, resources, and food were scarce and survival was a struggle. Times in the Ferguson family got so tough that when Dad was just six, his parents made the very difficult decision to send him to Georgia to live with relatives because they were unable to provide for both him and his younger brother, Ron, who had arrived just two years after Dad. Our grandparents took Dad to the Greyhound Bus Station in Latrobe and put him on a bus to Georgia—alone—with the promise that they would bring him home as soon as they could afford to do so. A year would pass before they were able to keep their promise. The experience burned a permanent mark on Dad's life, and although he didn't

share his memories often, he didn't hesitate to mention it when either of us were feeling sorry for ourselves without just cause.

When Dad returned home from his odyssey to Georgia, he took advantage of every opportunity to work and earn a dime or a dollar. He delivered newspapers, worked as a lifeguard at Idlewild Park and worked at Wittenmaier's Flower Shop, which, ironically, was housed on the same spot where we built our new office building in 2005. Dad took great satisfaction in having his name on the building in the same location where he had labored sixty years earlier to earn enough money to buy a candy bar.

Dad attended Latrobe High School, graduating with the class of 1949. After graduation, Dad tried to enlist in the Army, but was rejected because he had flat feet. He reluctantly enrolled at St. Vincent College in the fall of 1949. The family had no money, and Dad was responsible for earning enough to pay his tuition, which amounted to the princely sum of \$200 per semester. To meet this need, he worked at the steel mills in the summer and drove a taxicab in the evenings. Dad always enjoyed regaling us with stories of his "regulars," which consisted of a handful of local gents whose imbibing exploits often required that they be transported from their favorite watering hole to their front door.

In 1953, Dad became the first member of our family to graduate from college. He was promptly drafted into the Army and began preparing himself to head for Korea. Apparently the Army decided his flat feet weren't such a problem.

After basic training, Dad was working as an assistant to the base supply sergeant while waiting for his orders to come in. During that time, Dad became such a valuable asset to the supply sergeant that when his orders for transport to Korea finally arrived, the supply sergeant managed to have his name removed from the list. This was an event that would take place two more times before Dad was eventually assigned to serve as a military policeman, stateside.

After his hitch was up, and with the benefit of the GI Bill, Dad applied to, and was accepted, at George Washington University Law School. In his third year of law school, Dad attended a party hosted by the parents of a young lady he was dating at the time. Also in attendance that night was J. Edgar Hoover, the legendary Director of the FBI. Introductions were made and by the end of the night, Dad had secured a personal offer of employment with the FBI from Hoover. Ultimately, he declined Hoover's offer and decided to head home to practice law.

continued on page 4



▲ Richmond H. Ferguson, III

the sidebar

the sidebar is published bimonthly as a service for members of the Westmoreland Bar Association. Letters to the Editor should be sent c/o WBA, 129 North Pennsylvania Avenue, Greensburg, PA 15601-2311, fax 724-834-6855, or e-mail westbar.org@westbar.org. the sidebar welcomes submissions from members or non-members. Please submit to the Articles Editor, c/o WBA.

Back issues from 2000 to the present and a comprehensive, searchable index are available online at www.westbar.org/thesidebar.

EDITORIAL BOARD

David J. Millstein, Esq., *Editor*
Beth Orbison, Esq., *Assistant Editor*
The Hon. Daniel J. Ackerman,
Intern Emeritus
Charles J. Dangelo, Esq., Pamela Ferguson, Esq.,
and Susan C. Zellner, *Associate Editors*
Diane Krivoniak, *Managing Editor*

Remembering Richmond H. Ferguson, III

continued from page 3

After his return to Westmoreland County, Dad spent a year working for the now-legendary insurance defense litigator, and full-time taskmaster, Avra Pershing. After a year adhering to Avra's strict instruction, Dad opted to set up his own shop in a small office above Battaglia's Market in Latrobe. In that year, 1959, he managed to earn \$4,500. He was richer than he had ever been.

That year also marked the most important year of Dad's life. He met a young woman by the name of Loretta Mensch, who was working as a legal secretary for Greensburg attorney (and future Common Pleas Court Judge) Bob Rial. Their first date was a round of golf at Ligonier Country Club. Dad never seemed to be able to remember the outcome of the match, and those who have seen our mother hit a golf ball would understand why. The romance blossomed, and in November of 1960, the two were married. Within the next three years, we both arrived.

During the 1960s Dad slowly but surely built a good reputation and a good practice, concentrating on real estate transactions and will and estate work. In 1974, his efforts earned him a spot on the Board of Directors of Commercial National Bank, a position that he would hold for the next 32 years.

Mom and Dad always emphasized the importance of education, and with their support, we were both able to earn undergraduate and law degrees—Mike at Bucknell and the University of Pittsburgh School of Law, and Terry at Dickinson College and the Thomas Cooley School of Law.

Ferguson Law Associates was founded in 1989, when Mike joined Dad in private practice after a stint as a prosecutor in the Westmoreland County DA's office and Terry graduated from law school. Over the course of the next 15 to 20 years, our business prospered and we enjoyed immensely the support, companionship, and quiet wisdom Dad always provided as we were making our footprint in the Westmoreland County legal community.

While Dad's professional accomplishments and financial success were noteworthy, our memories and thoughts of him are more rooted in the values he instilled in us. Dad was simply a good and decent man. He was unflinchingly honest both with himself and with others, and he possessed both the wisdom to know wrong from right as well as the will power to do what he knew was right, whether it was convenient or not. He was deeply committed to his family and always put our needs ahead of his own.

We also treasure the memories of Dad's great sense of humor. Shortly after Dad's death, we received an e-mail from his close friend, Judge Daniel Ackerman. In the e-mail, Judge Ackerman described Dad to a T. "Every man has a calling card, and humor was Richmond's," wrote Judge Ackerman.

Only those who knew Dad well can appreciate how true that was. No one ever made either of us laugh louder, longer, or more robustly than our father, often at our own expense.

Dad had a dry, but razor-sharp wit that would unveil itself at any moment, under any circumstances. A few years back, the Rev. Clark Kerr (a terrific man and a former member of the Westmoreland County Bar) was installed as the new minister at the Latrobe Presbyterian Church. To commemorate Rev. Kerr's ascendance to the position, a cocktail party was held at the home of a member of the congregation. Many of the members of the congregation used the occasion to offer a few words of support to Clark. Near the end of the festivities, Dad approached Clark in solemn fashion and in a very serious tone said to him, "Clark, I have to ask you a question."

"And what's that, Richmond?" Clark said.

"Do you save bad girls?"

Clark hesitated a moment before answering, "Well, we certainly try."

Dad responded, "Good. Save me two for Saturday night."

That was our Dad. We miss him. 🌸

46th Annual Event

Red Mass Celebrated



WBA President-Elect Joseph W. Lazzaro (center) with The Most Reverend Mark L. Bartchak (right), Bishop of the Diocese of Altoona-Johnstown. Bishop Bartchak was the keynote speaker at the 46th annual Red Mass held at Saint Vincent Basilica on Friday, September 20. Sponsored by the Diocese of Greensburg and Saint Vincent Archabbey and College, the Mass was concelebrated by Bishop Lawrence E. Brandt and Benedictine Archabbot Douglas R. Nowicki (left). A reception and luncheon followed at Saint Vincent College. The Red Mass dates back to the 13th century when it marked the official opening of the new term for courts in most European countries. 🌸

Nominating Committee

It's Your Chance To Be A Leader

The Westmoreland Bar Association's Nominating Committee is accepting applications from members who would like to serve in leadership positions with the WBA.

The position of Vice President of the Board will be among the positions to be filled by election at the annual meeting. The Nominating Committee will consider applicants for nomination to the office of Vice President of the Board of Directors.

With the changes to WBA's bylaws approved in 2011, the size of the WBA Board increased. Two directors were elected in 2011, two in 2012 and two in 2013. In 2014, in addition to the position of Vice President, there are again two openings for seats on the Board of Directors. There is one opening on the Membership Committee, and one opening on the Building Committee.

**RESPONSIBILITIES OF AVAILABLE POSITIONS**

The **Vice President** automatically succeeds the President-Elect at the expiration of the term of the President-Elect then in office, or if the office of President-Elect becomes vacant. In the absence of the President and President-Elect, the Vice President presides at any meetings and carries out the President's duties.

RESPONSIBILITIES OF BOARD MEMBERS

The Board of Directors ensures that the WBA's mission, services, policies, and programs are carried out. Applicants should have experience in WBA activities such as chairing a committee, attending bar functions, and being active in the bar community. In addition, they must be able to think clearly and creatively, and work well with people, individually and in a group.

Interested candidates should know that the responsibilities include attending each monthly board meeting, the annual board retreat, and planning retreat, all bar association and foundation activities, and serving at the president's request.

Two positions are available, each for a three-year term. The Directors will:

continued on page 6

NED J. NAKLES, JR.
724-539-1291

NAKLES and NAKLES
www.nakles.com



Million Dollar Advocates Forum
American College of Trial Lawyers
(Inducted in London, England, 2007)
Westmoreland Academy of Trial Lawyers
Best Lawyers in America
Pennsylvania Super Lawyers
Pittsburgh Magazine: Best Trial Lawyers
in Westmoreland County
Philadelphia Magazine: Top Attorneys
in Pennsylvania

I would be happy to accept referrals on Personal Injury and Wrongful Death cases. Reasonable referral fees are paid in accordance with the Code of Professional Responsibility.

It's Your Chance To Be A Leader *continued from page 5*

- Attend all board and appropriate committee meetings and special events.
- Serve on committees and offer to take on special assignments.
- Inform others about the Westmoreland Bar Association and its activities and functions.
- Assist the board in carrying out its fiduciary responsibilities, such as reviewing the organization's annual financial statements.
- Take responsibility and follow through on given assignments.
- Contribute personal and financial resources in a generous way according to circumstances.
- Open doors in the community.

RESPONSIBILITIES OF THE MEMBERSHIP COMMITTEE

The Membership Committee is the first point of contact that most applicants for membership will have with the WBA. One position

for a five-year term is available. The Membership Committee member will:

- Attend monthly committee meetings.
- Personally interview and educate applicants on the workings of the WBA, including committee assignments, staff responsibilities, and new lawyer opportunities such as the mentor program, the Young Lawyers, and Pro Bono.
- Make recommendations for membership eligibility and class (participating or associate).

RESPONSIBILITIES OF THE BUILDING COMMITTEE

The Building Committee is responsible for maintaining the management and upkeep of Bar Headquarters. One position for a five-year term is available. The Building Committee member will:

- Attend quarterly committee meetings.

- Be knowledgeable about the utilization of Bar Headquarters for business and social functions.
- Help to develop the annual budget for operation of the building.
- Make recommendations to Board of Directors on matters of concern in building upkeep.

THE NOMINATING PROCEDURE

The Nominating Committee—Chair Dara A. DeCourcy, Esq., Joseph W. Lazzaro, Esq., David S. DeRose, Esq., Kerri Ann Shimborske-Abel, Esq., Samuel R. Coury, Esq., Terrance C. Ferguson, Esq., and Annaliese P. Masser, Esq.—will meet in December to begin preparation of a slate of nominees to present to the Board of Directors and the membership of the Westmoreland Bar Association.

Any member interested in running for any of these positions should submit an application to the Chair of the Nominating Committee c/o the WBA. An application form is included with this issue of *the sidebar*; or, you may download an application at www.westbar.org. A candidate may submit a completed application by first-class mail, fax (724-834-6855), or e-mail (dk.wba@verizon.net). **The WBA must receive the application by 5:00 pm on December 12, 2013.**

For more information about any of the positions, contact a Nominating Committee member. 🐾

where in the world IS THE WBA MEMBER?



James Boggs and his wife, Susan, spent ten days in June travelling to Venice, Florence, and Rome, Italy. Here, they took some time out from sightseeing to enjoy lunch on

Murano, a series of islands linked by bridges in the Venetian Lagoon just north of Venice. In 1291, the Venetian Republic, fearing fire and the destruction of the city's mostly wooden buildings, ordered glassmakers to move their foundries to Murano. As a result, Murano became the main producer of glass in Europe, and its glassmakers held a monopoly on high-quality glassmaking for centuries.

MURANO ISLAND, VENICE, ITALY

got news?

Do you have news to share with the sidebar? Making Partner? Community Involvement? Milestones? Accomplishments? Awards? Marriage? Birth? Anniversary?

E-mail us at westbar.org@westbar.org, and we'll publish your news in the next available issue.

Spotlight on Scott & Mary Mears

Editor's note: Scott and Mary Mears plan to retire at the end of 2013 after a combined sixty years of practice. Scott is a partner with Mears, Smith, Houser & Boyle, P.C., in Greensburg, and Mary is the All Counts Master in the Family Court of Westmoreland County. We decided to shine our spotlight on both of them before they head off to Bald Head Island, N.C.

Q WHAT IS THE BEST THING ABOUT BEING MARRIED TO A LAWYER?

S She makes money! Oh no, let's be serious. The best thing is that because of our jobs, we have a good understanding of people's problems and of life. We also seem to have a better understanding of each other's work. We don't have to first explain

the background, the setting, and the players. We seem to have an easier ability to identify the issue and resolve it.

M I think the best thing about being

married to a lawyer is the common knowledge you share with your spouse. It's a relief not to have to explain what a motion for summary judgment is before diving right into your story. They understand the system, the players, the issues, the frustration, the time requirements, and the fatigue.

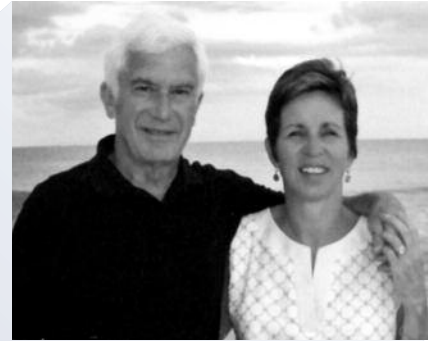
Q WHAT IS THE WORST THING ABOUT BEING MARRIED TO A LAWYER?

S She makes less money than I do! Oh, no, let's be serious. I really don't think there is a "worst" thing. I like that Mary is a lawyer.

M The worst thing about being married to a lawyer is when he forgets to "leave the briefcase at the door." I can feign interest in Car A, Car B, and Car C and the speed/distance/time formula for only so long!

Q DO YOU TALK "LAW" AT HOME?

S Of course we talk "law" at home and it helps. Mary and I practice in different areas; it always helps to get a fresh perspective. She gives me good advice and helps me in my area because



she understands the practice in general and how it works.

M Talking law at home—oh yeah. At least until the end of this year, it's what we do; it's who we are. What adds to our circumstances is that the kids and their spouses are attorneys as well, and nothing says love more than being at the Mears family dinner table with a great debate going on about the "whichness of what."

Q HOW OFTEN DO YOU DISAGREE WITH YOUR SPOUSE'S LEGAL ANALYSIS OF AN ISSUE?

S Hardly ever. If we have different ideas on anything, we usually talk it through until there is a consensus.

continued on page 8





Retiring?

We Call it Refreshing

Lindsay Turchetta, AWMA
Personal Office:
2016 Highland Avenue
Greensburg, PA 15601
Division Office:
2790 Mossie Boulevard
Monroeville, PA 15146





WADDELL & REED
Financial Advisors™
Investing. With a plan.®

Spotlight on Scott & Mary Mears *continued from page 7*

M There aren't many occasions when Scott and I have disagreed about law or, quite frankly, even disagreed just in general. He knows his area of the law; I know mine. Having said that, there are occasions when we give each other a fresh perspective or come up with something the other may not have thought of.

Q WHEN YOU HAVE AN ARGUMENT, WHICH ONE OF YOU IS BETTER AT CROSS-EXAMINATION?

S I am. I usually score points first and more often. Then three days later (and forever after), she makes me regret that I opened my big, fat mouth in the first place.

M Oh boy! Each of us has a different style of arguing. I do remember one occasion where Scott was essentially cross-examining me during a "difference of opinion." From my perspective, I was glad I recognized it and told him to knock it off. My style during an argument is to keep pretty quiet. I really don't like conflict (which is amazing in light of the fact that I practice in the family law area!), and I don't really do well on my feet. I've always needed time to gather my thoughts. My method is to reflect about things for a couple of days, sit and have a discussion, and then—WHAM!—lower the boom!

Q DOES YOUR SPOUSE UNDERSTAND YOUR WORK-RELATED STRESSES BETTER BECAUSE HE/SHE IS A LAWYER?

S Yes, she knows what we all go through. More importantly, she knows when I am stressed and how to deal with it. I really think we both help each other.

M Because of the type of work I do, it's rare that I bring home work-related stress with me. Fatigue? Yes. Stress? Not so much. I reflect on the problems or issues I encounter, but don't lose sleep

over them. Certainly, Scott's work has much more stress associated with it. I think having a lawyer for a spouse does help in that area. Over the years, I learned to either try to help in some fashion or stay the heck out of his way!

Q WHAT IS THE ONE QUALITY THAT YOUR HUSBAND/WIFE HAS THAT MAKES HIM/HER A GOOD LAWYER THAT YOU WISH YOU HAD?

S Mary is the best "people person" I have ever known. Sometimes, when I have difficulty with a person, I think that if I knew the person under different circumstances, things would be better. Mary cuts through all that. She seems to get to know, to deal with, and to have a rapport with a much greater variety of persons, including lawyers, than I could ever hope to. As a result, our friendships have broadened. I get to enjoy friendships with people under those different circumstances that I would not be able to otherwise experience.

M I couldn't do the type of work that Scott does. He has a sense of calm about him which I lack. When I was in private practice, I fretted; I obsessed; I lost sleep. He seems to intuitively know that things will (and usually do)

turn out all right. I became aware early on in my career that although I might have some skills, private practice and trial work weren't for me. I admire his ability to do the type of work he does—the late hours, the stress, the difficult clients—all of it. He may be "the duck," calm on the surface, but paddling like crazy underneath, but I don't see it—and I've always found that reassuring.

Q DID THE DEMANDS OF YOUR LEGAL CAREERS DEPRIVE YOU OF TIME TOGETHER?

S Yes, ever since college, I have been pretty much of a "workaholic." I still work on evenings and weekends. One of the reasons I am going to retire is that I will get to enjoy more time being with Mary.

M Not mine so much. Scott has always worked evenings and weekends, and we've pretty much planned around it. I've always accepted it, and have just been grateful I don't have to put in as much time as he does.

Q IF YOUR HUSBAND/WIFE HADN'T CHOSEN TO BE A LAWYER, WHAT OCCUPATION SHOULD HE/SHE HAVE BEEN INSTEAD?

S Mary would certainly have been successful in other occupations. I think she is perfectly suited, however, to be a lawyer. Like her father, she is down to earth and unpretentious. It is consistent with her personality that in spite of her many talents, she has no desire for self-aggrandizement. Oh, did I mention she could also be a mud wrestler?

M I think Scott could have pretty much done whatever he wanted to. He possesses a number of personal traits and abilities which have contributed to a long career, but I think the one that people might not know about or perhaps underappreciate is that he's quite a team player. 🐾

LawSpeak

"[T]he court's decision creates a precedent about precedent that may have greater precedential effect than the dubious decisions on which it relies."

— Justice Samuel Alito, in a dissent in *Alleyne v. United States*, issued June 17, 2013, in which the U.S. Supreme Court overruled a 2002 decision that had required judges to impose mandatory minimum sentences even if they were not supported by jury findings

September 2013 Civil Trial Term

Jury Trial Verdicts

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

Of twenty-three cases listed for the September 2013 Civil Jury Trial Term, ten settled, eleven were continued, one was dismissed, and one jury trial was held.

**MARIO SHANNON
V.
JENESSA MCELFRISH
NO. 7643 OF 2010**

Cause of Action: Negligence—Personal Injury—Automobile Accident

On December 30, 2008, Plaintiff was traveling southbound on Route 356 in Allegheny Township when Defendant pulled out of her driveway directly into the path of Plaintiff's oncoming vehicle. Although Plaintiff had the right-of-way, he applied his brakes and blew his horn; nonetheless, he collided with Defendant's vehicle. Plaintiff's car was damaged beyond repair; he sustained injuries to his neck and back as a result of the collision.

Defendant admitted that she "made a mistake" when she pulled out of her driveway into oncoming traffic.



However, she argued at trial that Plaintiff was comparatively negligent by driving at an excessive speed, which prevented him from avoiding the collision.

Defendant further argued that Plaintiff's present medical complaints related to a pre-existing condition and were not entirely caused by the accident. Accordingly, at the request of the defense, Plaintiff underwent an independent medical examination by Howard J. Senter, M.D., a neurosurgeon, who opined that

Plaintiff suffered only a lumbar sprain and strain that may have caused symptoms for up to six or seven months. He concluded that Plaintiff's ongoing symptoms related to the osteoarthritis that he developed prior to the motor vehicle accident.

Plaintiff's Counsel: Robert Bracken, Archinaco/Bracken LLC, Pgh.

Defendant's Counsel: Kenneth Ficerai, Mears, Smith, Houser & Boyle, P.C., Gbg.

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

Result: The jury found that Defendant's negligence was the factual cause of the accident, and that the Plaintiff was not negligent. The jury entered a verdict in favor of Plaintiff in the amount of \$2,500.00. 🐾

did you know?

Westmoreland County Civil Jury Trial Verdicts from 2000 to the present are available online at www.westbar.org/verdicts.

Attention Civil War Buffs

The Greater Greensburg Civil War Roundtable, meets on the first Thursday of every month at 7 p.m. at the Westmoreland Bar Association. The next meeting is the annual covered dish scheduled for Thursday, November 7, and will feature a talk about Lookout Mountain and Chattanooga. The topic for the Thursday, December 5, meeting is Knoxville.

For more information about the GGCWRT, contact Stu Horner. 🐾

BETTS MEDIATION & DISPUTE RESOLUTION LLC

Commercial Litigation & Business Disputes/
Securities Litigation & Arbitrations

Michael J. Betts

Experienced

Over 30 years -
business and securities litigation

Balanced

Representation of individuals and
businesses, on both sides of the "v"

Creative

Customized mediation approaches -
facilitative/evaluative/hybrid

The Frick Building, 437 Grant Street, Suite 200, Pittsburgh, PA 15219
412.223.5004 | www.bettsmediationllc.com

New Member Sketches

PETER JOSEPH BORGHETTI has been admitted as a participating member of the WBA. He earned a bachelor's degree in Aerospace Engineering from Penn State, and his J.D. from Massachusetts School of Law. An associate with Meyer, Unkovic & Scott LLP in Pittsburgh, he and his wife, Cherlyann, have three children and live in Murrysville.



NICOLE M. LAPRESTA has joined the WBA as a participating member. Nicole earned her undergraduate degree in English from Penn State, and her J.D. from the WVU College of Law. An associate with Tremba, Jelley & Kinney LLC, she resides in Uniontown.

STEFANI ANN LINGAFELT has been admitted as a participating member of the WBA. She earned a B.A. in Journalism from WVU, her J.D. from the Charlotte School of Law, and makes her home in Jeannette.

JAMES VINCENT NATALE has joined the WBA as a participating member. James earned his undergraduate degree in History from Saint Vincent College and his J.D. from Duquesne. A sole practitioner, he and his wife, Jill, live in Greensburg.

CHARLES K. SUNWABE, JR., was admitted to the WBA as a participating member. He earned a bachelor's degree in International Affairs from The George Washington University, and earned his J.D. from Washburn University School of Law. Charles is a sole practitioner in Greensburg. He and his wife, Dr. Ernestine A. Thomas, live in Pittsburgh with their two children.

ADAM YARUSSI has been admitted as a participating member of the WBA. He earned a bachelor's degree in English from California University of Pennsylvania, his J.D. from Thomas M. Cooley Law School, and makes his home in Leechburg. 🍷

foundation focus

Little-Known Facts About the WBF Trustees: A Contest

You'd think, wouldn't you, that we'd have better things to do with our time, that as the editorial board of the most prestigious law publication in the county there would be no end to the meaningful journalistic ways we could contribute to the information, education, and amusement of our readers.

You'd be right, but we decided to do this piece instead.

You know the drill. We have provided you with the names of all the members of the Board of Trustees of the



Westmoreland Bar Foundation and they have provided us with little-known facts about themselves.

Even the slightest perusal of these facts would enable anyone to readily comprehend why they are little-known and why, most probably, they should remain so. Nonetheless, we present you with this challenge: match the little-known events with the trustees to whom they apply and you may win one of two prizes. First prize is two tickets to an upcoming Steelers game. Second prize is four tickets.

Okay, that was a joke because, alas, the Steelers this year are even lamer than this contest. But there will be a prize for the entrant who has the most right answers. We're just not going to tell you in advance what the prize is in case the editor doesn't like the winner.

The decision of the editor is final and there will be no right of appeal. Any efforts to take such an appeal will result in forfeiture of the prize which, in the case of such an appeal, would have been a two-week, all-expenses-paid trip to Paris.

Finally, just to spice things up a bit and make this contest somewhat more interesting than your objective view of it, we have added some "unknown facts" which are completely facetious. Well, we mean completely facetious with respect to the Trustees. One person the editor knows can lay claim to all of these "facetious" qualities but in keeping with a commitment to journalistic confidentiality, he won't say anything more about it other than she's great fun at parties.

Send your answers by fax (724-834-6855), mail (WBA, 129 N. Pennsylvania Ave., Greensburg, PA 15601-2311), or e-mail (westbar.org@westbar.org) by November 27, 2013. 🍷

JimmyTheJunkman.com

Junk Removal ■ Estate Clean-Outs
Foreclosures

205 Oak Street
New Stanton, PA 15672

Jim Miller
Owner

724.217.2522

email: Jim@JimmyTheJunkman.com

We Haul Your Junk and Debris Away!

MATCH THE WEIRD FACT WITH THE WBF TRUSTEE AND WRITE THE LETTER IN THE CORRESPONDING CIRCLE ON THE ENTRY FORM.

- A** I spent my teenage years working on cars, repairing transmissions and doing other vehicle-related jobs. I also drove a tow truck.
- B** I'm in a relationship with the greatest guy on the face of the planet.
- C** I piloted a large commercial vessel, holding approximately 250 passengers in the Northern Atlantic/English Channel to Fowey, Cornwall, England.
- D** I once received a cow as a birthday present.
- E** I was a paramedic for a local ambulance service for 15 years before and after law school.
- F** I was at Woodstock in '68.
- G** For many years, I have researched my ancestors on both my father's and mother's side of the family. Over the years, I've found hundreds of new family members, all over the world, some of whom I've since met. On my maternal grandfather's side, I've traced my family to Hungary in the 1600s, which is particularly gratifying because I never knew my maternal grandparents as they were killed in the Holocaust in 1944.
- H** I was Snowball Queen.
- I** I won First Place in my elementary school's annual talent show when I was in fifth grade for my imitation of Fats Waller singing "Your Feets Too Big." (I got an encore.)
- J** I can pick my nose with my big toe.
- K** I played the bells in the high school band and dated the tuba player.
- L** In the summer of 1969, I was working on an archeological excavation at Tel Ashdod in Israel. On July 20—while Neil Armstrong and Buzz Aldrin were walking on the moon—I was working at the base of the Canaanite city wall from the time of Abraham in the Late Bronze Era, dating to approximately 1800 B.C. Quite a stretch of history.
- M** I like to run behind dump trucks for both fun and sustenance.
- N** I was an absolute tomboy, and was as good or better than any boy in my neighborhood when it came to playing anything that required athletic ability such as baseball, football, kick ball, tag, ice skating. I still love watching all kinds of competitive sports on television, and look forward to most sporting events.
- O** I sampled local beers in over 65 countries, and hope to reach 100 before the inevitable occurs.
- P** I dove off a 75' cliff the day before college graduation. (Editor's note: We presume into a body of water.)

- Q** In addition to my "day job," I have been a professional musician for the last 20 years, and have toured with some well-known recording artists, opening for acts such as Dave Matthews, and many other bands in the 90s.
- R** I earned college credits at three big ten schools.
- S** I met my wife when she and her friend picked me up hitchhiking when we were both in college.
- T** I sampled local beers in over 65 bars last Saturday. What day is this?

little-known facts about the wbf trustees: a contest

NAME _____

PHONE _____



Judge Ackerman



Jim Antoniono



Jack Bergstein



Dick Galloway



Janice Galloway



Tim Geary



Bill McCabe



Terry O'Halloran



Beth Orbison



Sam Rosenzweig



Kris Samloff



Lois Sayers



Maria Soohy



Bruce Tobin



Jason Yuhas

foundation focus

continued from page 11

Scholarships Awarded

The Westmoreland Bar Foundation awarded three law school scholarships and three college scholarships for the Fall 2013 semester.

WAYNE DONAHUE MEMORIAL SCHOLARSHIP

Derek Markle, from New Stanton, was awarded the Wayne Donahue Memorial Scholarship. Attorney Donahue, a sole practitioner from New Kensington, was a lifelong resident of western Pennsylvania.

A first-year law school student at Penn State University Dickinson School of Law, Derek is a *magna cum laude* graduate of Saint Francis University, where he earned a B.A. in Political Science.

“The funds will be put to good use in assisting with tuition and related expenses,” says Derek. “I am so honored and thankful to have been awarded this scholarship!”

DONALD LAIRD HANKEY MEMORIAL SCHOLARSHIP

For the second year in a row, Kayci Hines, from Lower Burrell, was awarded the Donald Laird Hankey Memorial Scholarship. Attorney Hankey was a sole practitioner in New Kensington and a member of the Westmoreland Bar Association for more than 65 years.

Kayci is a second-year student at American University Washington College of Law. She is a

graduate of Burrell High School and Duquesne University, where she majored in Political Science.

“Thank you so much for awarding me the Hankey Scholarship for the past two years,” she says. “I truly appreciate the opportunity to interview, monetary support to offset the tuition costs, and the well wishes. I look forward to continuing to improve as I begin my second year of law school.”

THE HONORABLE DAVID H. WEISS MEMORIAL SCHOLARSHIP

Erika Wahl, from Irwin, received the Honorable David H. Weiss Memorial Scholarship. Named for the former President Judge of the Court of Common Pleas of Westmoreland County, the Judge Weiss scholarship is awarded to a University of Pittsburgh law school student.

Erika, a 2013 graduate of the University of Pittsburgh with a B.A. in Political Science and Communication, is a first-year law school student at the University of Pittsburgh School of Law.

MOCK TRIAL SCHOLARSHIPS

Mock Trial Scholarships are made possible through the generous donations of members of the Westmoreland Bar Association, appropriately titled the Founding Fellows. Over \$60,000 was raised by this group to ensure that at least two \$1,000 scholarships could be awarded each year to deserving mock trial participants.

This year’s Mock Trial Scholarship winners are:

Madeline Peters. A 2013 graduate of Franklin Regional High School, Madeline is attending the University of Toronto to study Biology/European History. She is the daughter of Jerome and Jan Peters.

Caitlin Hensel. A 2013 graduate of Greensburg-Salem High School and a member of the winning county Mock Trial team, Caitlin is attending Seton Hill University to study Creative Writing.

COMPLETE REPORTING SCHOLARSHIP

The WBF Complete Reporting Scholarship was awarded to Jennifer McIntyre of North Irwin. Jennifer is a recent graduate of Community College of Allegheny County (CCAC) with an associate degree in court reporting.

The Complete Reporting Scholarship is funded by WBF Trustee and Complete Reporting Service owner Kris Samloff. 🍀



Volunteers for Justice

The Pro Bono Program extends thanks to all the attorneys who volunteered their time from July through September 2013: Steve Allias, Suzanne Bash, Nelson Berardinelli, Raymond Bitar, George Butler, Brian Cavanaugh, Clare Dooley, Rebecca Fenoglio, Karen Ferri, Charles Fox IV, James Horchak, Daniel Joseph, Randy Klimchock, Maureen Kroll, Irene Lubin, Shirley


Makuta, Philip McCalister, Zachary Mesher, Paul Miller Jr., David Millstein, Donald Moreman, Debra Nicholson, Keith Nicola, John O’Connell Jr., Terry O’Halloran, Gino Peluso, Dennis Persin, Daniel Schimizzi, Andrew Skala, Harry Smail Jr., Thomas Smith, Mark Sorice, Susan Williams, and Ron Zera. 🍀

Westmoreland County Prothonotary

Pay in-office with a credit card!

- Bonds
- Civil Fees
- Domestic Fees
- Miscellaneous Fees



2.75% Credit and Debit Card
Convenience Fee

\$2.00 Minimum Fee

To-Wit: The Law Particle

by S. Sponte, Esq.

What with so much ballyhoo these days about the Higgs Boson, many other significant discoveries are unfortunately going quite unnoticed. Perhaps that's why my own discovery has yet to stimulate so much as a yawn from the intelligentsia. Perhaps I'll have better luck with you.

Just like Fleming's discovery of penicillin, mine was purely a matter of chance. Opposing counsel and I had just negotiated the settlement of a complex lawsuit; he was sitting across my desk engaged with me in animated conversation, and suddenly everything, and I mean everything, stopped.

I was staring at him and he at me, but we were both completely immobile, totally oblivious to time, space, and the matter before us. We couldn't speak, move, or even bill for our time.

It seemed as if we remained transfixed that way for eons before my phone rang, pulling us both back from some distant, ghostly brink. I hadn't recovered fully enough to answer it before it stopped ringing but at least I was able to talk again. "What was that last thing you said?" I asked opposing counsel.

Groggily he reached back into the distant recesses of his memory and replied, "I said that this is a good settlement and that both of our clients are happy with it."

That was it, of course; that's what had flung us into the event horizon of what I now know to be the black hole of law, a ripped and torn place in the space-time-law continuum from which neither light nor reason ever escapes, just like with most litigation.

There are only a few universally accepted hypotheses in lawyering but this is one of them: it's only a good

settlement if both sides are unhappy. I learned that early on and all of my professional experiences have confirmed it. And yet there we were, having just negotiated a settlement that made both clients happy. Holy mackerel, no wonder our world had suddenly slammed to a stop.

This proves what I've long suspected: that there is, in the universe of lawyering, both matter and anti-matter, and just as in the physical universe, these are incompatible structures that cannot occupy the same space and time without nihilistic consequences. Our settlement agreement had created two structures incapable of simultaneous existence; the concomitant destructive explosion had flung us into an event

continued on page 14



QUATRINI RAFFERTY

ATTORNEYS AT LAW

Introducing...

The Disability Insurance Litigation Group at QuatriniRafferty

We have 15 years of experience handling litigation of Group Short-Term and Long-Term disability claims.

- We file your claim.
- We handle internal administrative denials and appeals.
- We handle individual insurance policy claims for professionals (physician, accountant, attorney).
- We litigate the claim in Federal or State Court.
- We coordinate the STD or LTD claim with personal injury, workers' compensation, or Social Security Disability to maximize your future income.



Brian Patrick Bronson

- Short & Long-Term Disability
- Social Security Disability
- Veterans Disability

724-837-0080
www.qrlegal.com

550 East Pittsburgh St. • Greensburg, PA 15601
816 Ligonier St. • Latrobe, PA 15650
941 Penn Avenue • Pittsburgh, PA 15222



 QuatriniRafferty

To-Wit: The Law Particle *continued from page 13*

horizon from which, according to Einstein, Hawking, and Goodrich-Amram, we should never have been able to emerge.

That we did puzzled me for some time until I remembered what had happened just after our return. My phone had rung again and this time I answered it; it was the client whose case I'd settled seemingly so long ago.

"Thank God I reached you," he said urgently. "I just called a few minutes ago but there was no answer. I've changed my mind about settling, it's a crappy offer, and I want to hold out for more."

Now, usually, when a client does this it infuriates me, but not this time. It was, after all, his return to unhappiness and greed that had restored the stasis necessary for my survival. So who am I to grouse about these innate and ubiquitous qualities of humankind?

This is important stuff, but to get my results published I need peer review. If my findings match up with your own, won't you please drop me a line of confirmation. Even if they don't, well, do it anyway. You've known me for a long time now, so tell me the truth; when have I ever been wrong? 🐼

© 2013, S. Sponte, Esq.

Can't get enough Sponte? More articles are online at www.funnylawyer.com.

HOW STRONG ARE YOUR ADVISOR'S STRATEGIES?



Hopefully, strong enough to handle typical market volatility.

After all, isn't that why you hired an advisor? At Private Wealth Advisors, we employ tactical asset allocation in designing a strategy for our client's investment portfolios. This strategy is designed to produce a less volatile portfolio while enhancing the possibility for greater returns. And doesn't everyone want a portfolio that solid. Call us. We would like to share our strengths with you. 800.245.5339 or visit www.pwaua.com.

WWW.PWAUSA.COM



Our investment strategy does not assure profit or guarantee against loss.

Letters to the Judge

Your honor, Sir,

My cellmate, Jeeter, asked me to write you, since Jeeter and his judge, are not on speaking terms. Jeeter wants to know if you could refer him to a compassionate personal injury lawyer. Not that you would make the referral yourself, for we all know that you are far too busy ferreting out injustice and protecting our rights to lend a hand to such a request; but perhaps you might have someone on your staff, in which you have confidence, to do it.

Jeeter's claim arose out of the contested possession of a piece of dessert in the dining hall, which a guard tried to mediate in such an untactful manner that Jeeter was left with a bloody nose and a chipped front tooth, which now detracts from his boyish grin that up to now had been his principal asset in life.

His request is prompted by an article in the paper about the referral efforts of the spouse/employee of a judicial officer of high esteem, who last year augmented the family income by some \$800,000 by referring a single case to a big-city law firm. You may wonder how this could be, but Jeeter calls it a triumph for free enterprise, and points out the likelihood of the many hours spent in poring over offensive ads in the yellow pages, supplemented by numerous calls, before she found a firm which would handle a matter against a well insured health care provider.

Jeeter's brother, Larry, knows by sight a few lawyers who come through the car wash where he is employed as a towel associate, but Larry is somewhat of a shy lad, and Jeeter thinks there is more of a likelihood of a lawyer undertaking his case if it is offered carrying even an indirect judicial imprimatur.

You shouldn't be nervous about this, your honor; the big-city lawyer who got the case in question told reporters that the \$800,000 referral fee was "routine and proper," and it seems that the experts on legal ethics, who were quoted, are divided on whether you would even be required to disclose the referral fee to litigants in your courtroom who were facing off against the fee-paying law firm, as the fee would just go to a lawyer in your chambers, who is likely underpaid to begin with.

According to the article, however, the FBI, in effect, said it would get back to us on this later.

Your Friend,
Ricky H. Benbow, Sr.

Editor's note: For the general rule on divided (referral) fees among lawyers, see Pennsylvania Rule of Professional Conduct No. 1.5 (e).

On August 21, 2013, the Pa. Supreme Court issued an order barring state appellate court employees from performing private legal work for compensation. Sources close to the court have stated that Mr. Benbow's letter played no part in the court's decision.

Westmoreland Revisited

Deluge: The Collapse of the Oakford Park Dam

by The Hon. Daniel J. Ackerman

Trolley parks was the name given to those sylvan picnic areas built and run by the owners of light railway lines during the late nineteenth and early twentieth centuries. Before automobile



▲ The Hon. Daniel J. Ackerman

ownership became common, trolleys or streetcars moved the majority of the populace between small towns and were a preferred method of commuting to work. Traffic was down, however, on weekends and evenings, and transit companies soon saw the benefit of creating an attraction

near one of their terminals, where families could escape for outdoor recreation, and, of course, use the trolley line to get there.

Initially, trolley parks offered simple amenities: often just a pavilion and some picnic tables. A nascent park in Westmoreland County, which was somewhat more ambitious, was featured in the April 17, 1896, issue of the *Jeannette News*:

"[P]ortions of the ground are being terraced and rustic benches by the score are being placed at convenient intervals in all parts of the grounds. Rustic bridges are being constructed across streams and work on the lake will begin this week ... Fairview Park [as it was initially known] promises to be one of the finest picnic grounds in the country."

Trolley line operators soon came to believe that pastoral pleasures alone were not enough. An example set by a transfigured trolley park in Brooklyn,

N.Y., known as Coney Island, demonstrated that excitement would add to the draw of passengers, and would produce even greater profits, with revenues derived through carnival rides and food.

FROM PICNIC GROUND TO AMUSEMENT PARK

Oakford Park, as it would soon be called, was situated on 43 acres in the townships of Hempfield and Penn, just east of Jeannette's city limits and off a dirt cartway, now Route 130. It followed the progression from picnic ground to amusement park as it was developed by the Greensburg, Jeannette and Pittsburgh Street Railway Company.

Around the gazebo, in the center of the park, visitors would find a dance hall, roller coaster, carousel, restaurant, a 900-seat opera house, and other conveniences and attractions, all set upon beautifully landscaped grounds,

bisected by the winding course of Brush Creek, making the park one of western Pennsylvania's busiest summer destinations.

Almost immediately after procuring the property, another entity, the Pittsburg, McKeesport and Greensburg Traction Company, was hired to dam the flow of Brush Creek above the terraced area containing the buildings and attractions to create a six-acre lake known as Lake Placid. It was held in place by a 25-foot high earthen breastworks—321-feet long and a little over 14-foot wide at its top—with a maximum depth of 20 feet. For seven years, the lake would provide a serene venue where rowboats could be rented to get away from the heat and the crowds.

At the time, earthen dams were not above suspicion. The nationally known tragedy at Johnstown was only seven years past when construction on the

continued on page 16



"Helping You Control Your Health Insurance Costs Since 2002"

As an independent health insurance broker we are able to shop carriers and plans every year. Our job is to ensure you are getting the best price and coverage for you and your clients.

Your goals are our #1 priority! We have been the health insurance broker of the Westmoreland Bar Association and members since 2008.

What We Offer:

- Small Group Plans
- Medicare Advantage Plans
- Individual Plans
- Supplemental Plans

For a Free Quote Call or E-mail Today:

Bob 724-312-3454
 Valerie 724-312-2762
 E-Mail rjswann.insurance@gmail.com
 Web www.rjswanninsurance.com

Collapse of the Oakford Park Dam *continued from page 15*

dam began; and after the Johnstown flood, engineering experts had been critical that no masonry had been incorporated into the breastworks. But Lake Placid covered merely six acres, while Lake Conemaugh, which had been held in place by the South Fork Dam above Johnstown, had had a surface area of 450 acres. Surely, the use of masonry in the core of the breastworks (there was cement used in constructing the spillway) would amount to overkill for such a small body of water, and the “puddled earth” method of employing a mixture of wet clay and sand, which would harden into a waterproof barrier, would be sufficient.

Oakford Park opened as an amusement park in May 1903. By the many photographs taken at the time, we see that the public treated visits to the park as a major social event. Women turned out in long dresses with high stiff collars, and hems which would brush the floor. White was the seasonal color of choice; while a parasol fended off the harmful rays of the sun which might get around their broad-brimmed hats. Going to the park provided an opportunity for one to be seen, and of course, looking prosperous was certainly desirable. Men, even in the hottest weather, wore suit-coats or blazers and a necktie, with bow ties being a favorite, as well as over-the-ankle boots. The sporty ones donned flat-topped hard straw hats, called “skimmers” or “boaters,” with the rest wearing the ubiquitous felt bowler. Parents, despite how impracticable it might have been, dressed their children in white.

SUNDAY, JULY 5, 1903

The calendar lent a hand to the new park by having the Fourth of July, with its anticipated fireworks display, fall on a Saturday; which meant that park operators could, that weekend, despite some unusually wet weather, anticipate the largest attendance of the season. Even the less-than-picture-perfect weather did not diminish attendance.

Both days proved to be hot, humid, and overcast; and though Sunday mornings were never crowded since church attendance was a priority, by Sunday afternoon the crowd swelled to about 800, as it had the day before, as many families were on hand to hear the initial open-air performance of the Jeannette Boys’ Band. There was no way of knowing that a front of unstable weather was moving up the Ohio River valley from Texas’ gulf coast.

Dark, heavy clouds rested behind the trees on the west side of the park and some began to worry that the boys in



▲ Mrs. Alice Hartung and her daughter enjoying a day at Oakford Park. Men in suits, children in their finest clothes, and women wearing the fashion of the day were commonplace sights. Photo courtesy of John Howard, Howard Graphics & Photography.

the band wouldn’t get their program in. The breeze had picked up and there was a noticeable drop in temperature.

By most accounts, around three to four o’clock, as the boys’ band started to play, widely scattered but heavy drops started to fall, and with the first sound of thunder, the heavens opened and everyone in the park ran in various directions seeking shelter. Summer storms are frequently violent and punishing, but many pass quickly, which certainly must have been the hope of those at the park. This storm

however, which covered approximately ten square miles, showed no signs of moving on or letting up. As patrons huddled in the park’s buildings, pavilions, and under any overhanging roof they could find, Brush Creek overflowed its banks and flooded the fairgrounds; and it began to dawn on some that this was not just a ruined outing, but a matter of life and death.

Park manager James McGrath and his assistant, Charles Thomas, upon seeing the water in the lake pouring over the top of the dam, opened a 24-inch drainpipe, and waded through the water going from building to building, urging everyone to leave their shelters and seek higher ground. Many who were afraid to face the driving rain and water literally had to be driven out of the buildings; but still, some would stay in place despite the warnings and threats.

At the park entrance, many had taken refuge in the trolley station waiting room; a clutch of patrons were on top of a flat car and others in a stranded streetcar, all of which would be eventually swept downstream. With the exception of the dance pavilion and a lunch stand, all park buildings were pushed off their foundations and floated away, as did homes and buildings in Grapeville, Jeannette, and Penn, and a number of bridges as far west as Irwin. Downstream, 150 people who lost their homes would be subsequently rescued.

A waterspout swirled above Lake Placid, and at the apex of the storm, the seven-year-old dam which separated the lake from the rest of the park gave way with a loud roar as the five-and-a-half inches of rain which fell that afternoon upon the lake, and the rest of its contents, surged into the already flooded park in a six-foot high wall. Engineers would later calculate the rate of discharge at 6,462 cubic feet per second.

People facing the threat of death don’t pause to look at their watches, and there would be many estimates as to when the dam failed, but, as we will see, the time of the event would become crucial.



▲ The path of devastation began at Oakford Park and proceeded through Grapeville (left), Jeannette (center), Penn Borough (right), Manor, and Irwin before subsiding. The destruction was overwhelming. Photos courtesy of John Howard, Howard Graphics & Photography.

It was not the only dam to fail in the deluge. The Fort Pitt dam on Bull Creek and the Westmoreland Water Company dam containing 13 acres of water at Radabaugh were also unequal to the challenge of the storm.

THE TOLL OF THE STORM

Below the park, debris from shattered buildings, the merry-go-round, and the roller coaster was carried into the valley and became lodged in the arch under the Pennsylvania Railroad tracks, creating a back-up of water 25 feet deep. In Jeannette’s business district, the water was waist deep; eight horses and a colt drowned at the stables of the Jeannette Brewing Company. Railroad tracks in

Manor were washed out, while it was asserted that Penn suffered the greatest property damage.

The headlines, however, were not about property damage. The flood was national news. The next day New Yorkers would read in the *Times*: “CLOUDBURST FLOODS A SUMMER RESORT: From 20 to 100 Reported Drowned at Oakford Park, Penn.” In Iowa, the *Cedar Rapids Evening Gazette* predicted the death toll would reach 75. Two days after the flood, a *Times* article was more realistic in reporting: “TWENTY KNOWN DEAD IN PENNSYLVANIA FLOOD,” a figure supported by most sources.

As one might expect, most victims were young adults. Excluding the oldest (a 61-year-old woman), the youngest (an 8-month-old infant), and two unknowns, the average age was 22. The majority of these had taken refuge in the trolley station waiting room and in the stranded streetcar. All had drowned except the infant, who died of exposure, and a man from Indianapolis, who had been swept a mile downstream, and in an act of desperation, grabbed a wire, which was, unfortunately, a downed power line, and was electrocuted.

On July 15, a jury of six men, selected by coroner Charles A. Wynne, *continued on page 18*



Helping generations achieve their dreams.

Since 1894, we have been committed to putting clients first. Helping generations through tough times and good times. Never taking a bailout. Call us for a complimentary 30-minute consultation today, and discover how you can benefit from the strength of a global financial leader and the heart of a one-to-one relationship.

Our Advisors. Your Dreams. MORE WITHIN REACH®

Call us today at (724) 600.0170



Timothy Henry
Financial Advisor
An Ameriprise Platinum Financial Services®
practice

- ✉ 232 W Otterman St
Greensburg, PA 15601
- ☎ 724-600-0170
- ✉ timothy.m.henry@ampf.com
- 🌐 www.ameripriseadvisors.com/
timothy.m.henry

Ameriprise Financial Services, Inc. Member FINRA and SIPC. The initial consultation provides an overview of financial planning concepts. You will not receive written analysis and/or recommendations. © 2012 Ameriprise Financial, Inc. All rights reserved.

Collapse of the Oakford Park Dam *continued from page 17*



▲ After the dam broke, its remains attracted curiosity seekers who followed the formerly idyllic walkways to see the destruction. From this viewpoint, the destroyed dam and vast, empty lake bottom can be observed, as well as the “puddled earth” method of construction. Photo courtesy of John Howard, Howard Graphics & Photography.

was convened in the Westmoreland County Courthouse. A second jury session took place the following Monday in Jeannette. As with any chaotic event, the witnesses were not consistent in their recollection of the order of events or the time. Most importantly, four of the jurors were in agreement that the deaths occurred before the dam gave way, concluding that, “The people who had taken refuge in the waiting room at the park entrance had been swept to their deaths long before the retaining wall of the dam had begun to show signs of disintegration.” Two jurors who did not join in this finding were lawyers, J. L. Kennedy, of Jeannette, and B.W. Caldwell, of Penn. The final verdict was that no human agency was to blame; in essence, the deaths resulted from, “An act of God.”

ANOTHER TYPE OF STORM

The verdict of the coroner’s jury created another type of storm. The *American Law Review* denounced the “Act of God” theory as the “biggest humbug in the law,” and incorporated a screed of an editorial from the *New York Times*, “Dams That Fail,” specifically written about the Oakford

Park tragedy, proclaiming: “Behind it exists a crime for which somebody is responsible and for which just punishment should be decreed.” In one of the editorial’s calmer pronouncements, the editor wrote: “The reason dams fail is that they are not strong enough to resist the conditions to which they are liable to be subjected to at times of exceptional precipitation.”

While one can accept this latter contention, both the newspaper and the law review ignored the finding of the coroner’s jury, which, rightly or wrongly, concluded that the dam didn’t give way until after the deaths of the victims. Two engineers who would later examine the tragedy, however, would concur with the jury’s finding.

Harrison Souder, who visited the site only a few days after the flood and gathered data, delivered a paper a year later to the Engineers’ Club of Philadelphia in which he concluded that a torrent of water had come over the crest of the dam for at least 20 minutes before it broke. And writing in the *Engineering News*, Willis Whited said that while some eyewitnesses had testified that it took two to three hours for the breach to occur, he was of the

opinion that the dam held for an hour after the water from the lake crested over the top of the dam, which still meant that visitors had time to get out of the way, but were reluctant to leave their shelters in the heavy rain.

THE JOHNSTOWN FLOOD EFFECT

What present day lawyers may find perplexing is that notwithstanding the outcome of the inquest, the verdict of the coroner’s jury did not preclude the filing of civil actions, yet none were filed. Perhaps to understand this, it is necessary to consider the aftermath of the Johnstown flood.

The death toll in the aftermath of the flood at Johnstown was 2,209. As noted above, engineering experts were critical of the dam’s construction, and the inquest by the Cambria County coroner resulted in the coroner’s jury proclaiming: “We further find, from the testimony and what we saw on the ground that there was not sufficient water weir [structures to control the level and flow], nor was the dam constructed sufficiently strong nor of the proper materials to withstand the overflow; and hence we find the owners of said dam were culpable . . .”

Newspapers across the country had turned their fury upon the South Fork Fishing and Hunting Club, the owner of the dam, and its “aristocratic” members. Numerous lawsuits followed against multiple defendants, but as David McCullough wrote: “Not a nickel was ever collected through damage suits from the South Fork Fishing and Hunting Club or from any of its members.” In the few cases that reached a jury, defense verdicts were returned in compliance with the defense argument that the tragedy was a “visitation of providence.”

The courts were not the only forum in which claimants or potential claimants may have lost. After both disasters, clergy often perceived the hand of divine retribution in these events and called it to the attention of

their congregations. Certainly, today, most faiths would not consider such pronouncements theologically sound, nor would they have traction with the public; however, in the early twentieth century, such thoughts were still part of the public consciousness.

If defense verdicts followed the Johnstown flood—where experts declared the dam faulty, a coroner's jury found the owners culpable, and over 2,000 people had died—what were the odds favoring recovery for the Oakford Park victims, where the inquest exonerated the park operators and builders of the dam, and witnesses would testify that the victims had drowned prior to the collapse of the dam? Today's lawyers might welcome such a challenge, but they also would have the benefit of better science and broader discovery.

Whatever financial relief went to the surviving victims or the families of the deceased had to come from churches, charities, or the generosity of the public. Four days after the flood, it was reported that \$30,000 had been raised for relief of the victims and that an additional \$60,000 was needed. Even today, not much has changed when we consider the loss of life and property from hurricanes, tornados, earthquakes, and floods. The story of the Oakford Park flood demonstrates what has always been true: that most suffering goes uncompensated by the law. 🐼

SOURCES

- "Cloudburst-Dams That Fail-The 'Act-of-God'." *American Law Review*, 37 Am. L. Rev. 587, 1903. 27 June 2013 <<http://heinonline.org>>.
- "Cloudburst Floods Summer Resort." *New York Times*. 6 July 1903.
- "Dams That Fail." *New York Times*. 7 July 1903.
- "Echoes of the Flood." *Jeannette Dispatch*. 16 July 1903.
- History of Jeannette. *American Legion Post 344*, self-published, 1976.
- History of Oakford Park Commemorating the 100th Anniversary of the 1903 Flood. *Jeannette Area Historical Society*, 2003.
- Howard, John. Interview, 24 June 2013.
- Mass Fatality Response Plan, "July 5, 1903," Appendix 8 to Annex D (Logistics). 12 June 2013 <<http://www.docstoc.com>>.
- McCullough, David. *The Johnstown Flood*. Simon & Schuster, 1968.
- "No Deaths Were Caused by Failure of Oakford Park Dam." *Jeannette Dispatch*. 30 July 1903.
- Oakford Park Calendar. *Jeannette Area Historical Society*, 2006.
- Perich, Terry, and Howard, John. *Jeannette*. Arcadia Publishing, 2005.
- "Scores of People Die in Deluge." *Cedar Rapids Evening Gazette*, 6 July 1903.
- Sadler, W. F. to Greensburg, *Jeannette & Pittsburgh Street Railway Company, Deed, Westmoreland County Recorder of Deeds, Deed Book Vol. 288 p.183*, 31 Oct. 1898.
- Souder, Harrison. "Failure of Oakford Park Dam Across Brush Creek Near Jeannette, Pennsylvania." *Proceedings of the Engineers' Club of Philadelphia*, Vol. XXI, No. 3, July 1904.
- Steeley, James V. "The Oakford Park Flood of 1903." *Westmoreland History*, Summer, 1995.
- Terpko, Ron. *History of Oakford Park Swimming Pool*. 3 June 2013 <<http://www.youtube.com/watch?v=WU40bFgjkU>>.
- "\$30,000 For Flood Fund." *Minneapolis Journal*. 9 July 1903.
- "Twenty Known Dead in Pennsylvania Flood." *New York Times*. 7 July 1903.
- Whited, Willis. "The Failure of the Oakford Park and Fort Pitt Dams Near Jeannette, Pa." *Engineering News*, Vol. L, No. 4, July-December 1903.
- Wikipedia, "Fashion 1903." 3 June 2013 <http://en.wikipedia.org/wiki/1900s_in_fashion>.

Actions of the Board

JULY 18, 2013

- Membership Committee recommendations accepted as presented: Stefani Lingafelt, Anthony Rosner, Clare Dooley, Adam Yarussi—participating.
- YL: Softball game set for August 16 at Altman Field; golf event set for August 27 at Totteridge. WBA will underwrite appetizers/drinks.
- ADR: Mr. Noble continues to work on family court issues; conversations that started as mediation have expanded to include pro se "take-over" of the courts.
- Agreed to table the bylaw recommendations until after the Planning Retreat.
- Voted to give permission to the Inns to place a plaque near the Ned J. Nakles display in the large conference room at WBA HQ in honor of Bob Johnston, founder and mentor of the Inns.
- Voted to change Mr. Herrington's membership status to Honorary.
- Mr. Noonan volunteered to work on establishing a Legacy Foundation for members to leave contributions from their estates to the WBA/WBF.
- Agreed that Megan Suite should be booked for the 2014 Memorial Service luncheon.
- Approved distribution of the WBA mailing list to any WBA member who requests it.

AUGUST 15, 2013

- Accepted the new WBA logo.
- Agreed to continue conversations with the Prothonotary's office about e-filing project.
- Agreed to advertise the Platte Moring event to high schools, colleges, veteran organizations and social service associations.
- Voted to allow the distribution of master list to WBA members, political incumbents and political candidates. 🐼



129 North Pennsylvania Avenue
Greensburg, PA 15601-2311

www.westbar.org

PRESORTED
STANDARD
U.S. POSTAGE
PAID
GREENSBURG, PA
PERMIT #678



CALENDAR OF EVENTS

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

NOVEMBER

- 11** Courthouse closed in observance of Veterans Day
- 13** Real Estate Committee, Noon
- 14** Membership Committee, Noon
- 15** Lawyers Assistance Committee, Noon
- 18** [PBI CLE] School Law, 9 a.m. to 1:15 p.m. *Register through PBI.*
- 19** Family Law Committee, Noon
- 20** Elder Law & Orphans' Court Committees, Noon
Ned J. Nakles American Inn of Court, 5 p.m.
- 21** Board Meeting, 4 p.m.
- 22** [CLE] Bridge the Gap, 9 a.m. to 1:15 p.m., 4 optional ethics credits
PBA House of Delegates, Harrisburg

- 28** Courthouse closed in observance of Thanksgiving
- 29** Courthouse closed in observance of Thanksgiving

DECEMBER

- 4** [CLE] Topic to be announced, Noon to 1:15 p.m.
- 7** Holiday Dinner Dance, Greensburg Country Club, 6 p.m.
- 12** Membership Committee, Noon
Ned J. Nakles American Inn of Court, 5 p.m.
- 17** Family Law Committee, Noon
- 25** Courthouse closed in observance of Christmas

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. 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.

CANDIDATE INFORMATION FORM

Applicants should be returned to the Westmoreland Bar Association by December 12, 2013.

I am interested in serving in a leadership role with the WBA for the 2014 election and would like the Nominating Committee to consider me for candidacy. I understand that, if elected, I am expected to attend all committee meetings and will be expected to accept and fulfill designated responsibilities.

I wish to run for the position of:

- Vice President
- Director (3 yr.)
- Membership Committee (5 yr.)
- Building Committee (5 yr.)

Nominating Committee Members:

If you have any questions, please contact them.

Dara A. DeCourcy, Chair

Joseph W. Lazzaro

David S. DeRose

Kerri Ann Shimborske-Abel

Samuel R. Coury

Terrance C. Ferguson

Annaliese P. Masser

Please complete the following information. Attach additional background information that you feel would be helpful for the committee to know.

Name: _____

Firm: _____

Address: _____

Phone: _____ Year admitted to practice: _____

Law School: _____ Year joined WBA: _____

Activities with the Westmoreland Bar Association (limit of 3):

1) _____

2) _____

3) _____

Other professional information (limit of 3):

1) _____

2) _____

3) _____

Signature: _____ Date: _____

**Friday,
November 22, 2013
9:00 am - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA
office by 12 pm November 21, 2013)

CLE Credit

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

Waived for Young Lawyers
(practicing 10 years or less)

WALK-IN:

CLE Credit

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers
(practicing 10 years or less)

Pizza and Soda 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

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

As a courtesy of the Westmoreland Bar Association, this seminar is being offered **FREE** to **newly admitted attorneys** who are required to complete the Bridge the Gap program by their first CLE compliance deadline.

PROGRAM FORMAT

This four hour program produced by the PA CLE Board consists of the following sections.

- ◆ Introduction from the Chief Justice
- ◆ Communications
- ◆ Practice Management
- ◆ Fiduciary Requirements
- ◆ Overview of the PA Supreme Court Disciplinary System
- ◆ Outreach Programs & Resources

Four (4) ETHICS Credits are available toward your annual CLE requirements.

You may pre-register for this seminar by visiting the westbar.org website. You must “LOG IN” to register.
OR submit the form below.

Bridge the Gap — November 22, 2013

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

Enclosed is my check made payable to the Westmoreland Bar Association.

Bill my MasterCard VISA DISCOVER for \$ _____ (Amount).

Card # _____

Expiration Date _____

Three digit security code on back of card _____

Credit Card Billing Address _____

*** PRE-REGISTRATION Fees: 4 Ethics credits available**

I am a Newly Admitted Attorney — **FREE**

\$30 per credit hour, WBA member

\$50 per credit hour, Non-member

Non-Credit:

\$10 Flat Rate

Waived for Young Lawyers
(practicing 10 years or less)

*** 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, by 12 pm November 21, 2013.**

Do you Serve on a Nonprofit Board?
Are you Active with a Nonprofit Association?
Have you Taken a Leadership Role in the Community?

If so, please join us for

Trends for “High Performing”
Nonprofit Boards

According to the Harvard Business Review, effective governance of nonprofit organizations is “a rare and unnatural act.” This session will focus on several recent trends that appear characteristic of peak-performing boards.

Eric Davis, Esq. -

For years, Eric has helped nonprofits gain tax exempt status and deal with issues confronted by nonprofit boards. Eric is also a recognized expert on nonprofit fundraising and teaches classes and participates in panel discussions for the Pennsylvania Association of Nonprofit Organizations, Pennsylvania Bar Institute, Association of Fundraising Professionals, Young Professionals Network and others.

Michael Kumer -

For the past decade, Michael served as the Executive Director of Duquesne University’s Nonprofit Leadership Institute. As an energetic and inspiring speaker, Michael’s presentations are in demand. His programs enjoy a cumulative enrollment of thousands of board members and staff representing hundreds of nonprofit agencies. He is a frequent guest speaker on the topic of community leadership at local, regional, and national conferences.

The event will be held at
Mary Lou Campana Chapel at the
University of Pittsburgh at Greensburg

Tuesday, November 26, 2013
4:00-6:00 p.m.
Allow time to register

Complimentary Reception
6:00-7:00 p.m.

RSVP by Tuesday, November 19, 2013 to Erin
at 724-836-4400 or by visiting the friendly URL:

<http://community.pittsburghfoundation.org/WestmorelandCLE>

Tues. November 26th
4-6 PM
FREE CLE



AFFILIATED WITH THE PITTSBURGH FOUNDATION

2 CLE (1 Substantive, 1 Ethics)
Must attend entire program to
receive Ethics Credit

Executives and Board members of
non-profit organizations are
encouraged to attend.



Join us on

**TUESDAY,
DECEMBER 3**

at Noon

**at WBA
Headquarters**

**for an update on the
Affordable Care Act and
how it affects you and
your clients.**

Lunch will be provided.

**RSVP
to the WBA
at 724-834-6730
or e-mail
westbar.org@
westbar.org
or register
online at
www.westbar.org**

Part 2: Affordable Care Act and how it affects you and your clients.

Lunch & Learn



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

Q & A

The Ethics of Deposition Technology: Zealous Representation in the iPhone Era

An accredited provider for the PA Board of
Continuing Legal Education



“Lawyers have twin duties of loyalty: while they are retained to be zealous advocates for their clients, they bear a professional obligation to conduct discovery in a diligent and candid manner. Their combined duty is to strive in the best interests of their clients to achieve the best results at a reasonable cost, with integrity and candor as officers of the court. Cooperation does not conflict with the advancement of their clients’ interests -- it enhances it. Only when lawyers confuse advocacy with adversarial conduct do these twin duties of loyalty present a conflict.”

Topics to be discussed:

- Basic foundation of client representation
- Affirmative duty to apply technology
- Cost-benefit analysis
- Deposition technologies and related ethical considerations:
 - Videotaped depositions
 - Realtime, both standard and Internet
 - Remotely-conducted (NextGen) depositions
 - Electronic communications during depositions
 - Online repositories for transcripts, exhibits, and video
- Ethical considerations of service providers
- Open issues around social networking tools like Facebook and Twitter

Presented by: NextGen Reporting

One (1) Ethics Credit is available toward your annual CLE requirements.

You may pre-register for this seminar by visiting the westbar.org website. You must “LOG IN” to register. OR submit the form below.

December 4, 2013 The Ethics of Deposition Technology

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

Enclosed is my check made payable to the Westmoreland Bar Association.

Bill my MasterCard VISA DISCOVER for \$ _____ (Amount).

Card # _____

Expiration Date _____

Credit Card Billing Address _____

Pre-Registration Fees

CLE Credit:

- WBA Members - \$30 per credit hour
- Non-Members - \$50 per credit hour

Non-Credit:

- \$10 Flat Rate
- Waived for Young Lawyers (practicing 10 years or less)

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, **by 12 pm December 3, 2013.**

— LIVE — 1 Ethics Credit Available

**Wednesday,
December 4, 2013
12:00 pm - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm December 3, 2013)

CLE Credit

WBA Members- \$30 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$10 Flat Rate

WALK- IN:

CLE Credit

WBA Members- \$40 per credit hr.

Non-Members - \$50 per credit hr.

Non-Credit

\$20 Flat Rate

Waived for Young Lawyers (practicing 10 years or less)

Lunch will be provided.

Westmoreland Bar Association

129 North Pennsylvania Ave.

Greensburg, PA 15601

724-834-6730

Fax: 724-834-6855

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

Wednesday,
December 18, 2013
WBA Headquarters
9 am - 4:15 pm

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12:00 pm December 17, 2013)
CLE Credit

WBA Members- \$30 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit
\$10 Flat Rate
Waived for Young Lawyers
(practicing 10 years or less)

WALK- IN:

CLE Credit
WBA Members- \$40 per credit hr.
Non-Members - \$50 per credit hr.

Non-Credit
\$20 Flat Rate
Waived for Young Lawyers
(practicing 10 years or less)

Pizza and soda will be provided.

Westmoreland Bar Association

129 North Pennsylvania Ave.
Greensburg, PA 15601
724-834-6730
Fax: 724-834-6855
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

Session 1 — 2.5 Substantive Credits

9:00 am – 11:30 am (Video from 6/13/13)

Hot Coffee - Is Justice Being Served?

Hot Coffee examines the effect of tort reform on ordinary citizens who have given up Constitutional rights without knowing it. Using the infamous McDonald's spilled coffee case that resulted in a \$2-million jury verdict, the film seeks to set straight the complete facts behind the media attention and public relations campaign.

Moderator - Joyce Novotny-Prettiman, Esq.

Attorney Panelists: Maria Altobelli, Larry Loperfito, Ned Nakles Jr.

Session 2 — 1 Substantive Credit

11:45 am – 12:45 pm (Video from 3/20/13)

Auto Law/Personal Injury Update 2013

- ♦ Rundown of Significant Developments in Auto and Personal Injury Cases

Speaker: Michael D. Ferguson, Esquire, Ferguson Law Associates

Session 3 — 2 Substantive Credits

1:00 pm – 3:00 pm (Video from 4/17/13)

Subrogation and Medicare Issues in Personal Injury Cases

- ♦ Health Insurance Liens
- ♦ DPW Liens
- ♦ Workers' Compensation Liens
- ♦ Child Support Liens
- ♦ Medicare Liens
- ♦ Medicare Set Asides

**Speakers: Michael D. Ferguson, Esquire, Ferguson Law Associates
Travis W. Smith, Esquire, Burns White LLC**

Session 4 — 1 Ethics Credit

3:15 pm – 4:15 pm (Video from 6/14/13)

Malpractice Avoidance

- Managing Client Relationships
- Client Files in the Digital Age
- Fee Agreements

**Speaker: James R. Schadel, Esquire
Weinheimer, Schadel & Haber PC**

Five and a half (5.5) SUBSTANTIVE and One (1) ETHICS Credits are available toward your annual CLE requirements.

You may pre-register for this seminar by visiting the westbar.org website. You must "LOG IN" to register OR submit the form below.

December 18, 2013 Video Compliance CLE

Name: _____
Attorney I.D. # _____
Address: _____
Email: _____
Phone: _____

Sign me up for:

- Session 1 – 2.5 substantive credits no credits
 Session 2 – 1 substantive credit no credits
 Session 3 – 2 substantive credits no credits
 Session 4 – 1 ethics credit no credits

Pre-Registration Fees

CLE Credit: _____
WBA Members - \$30 per credit hour
Non-Members - \$50 per credit hour

Non-Credit:

\$10 Flat Rate
 Waived for Young Lawyers
(practicing 10 years or less)

Enclosed is my check made payable to the Westmoreland Bar Association.

Bill my MasterCard VISA DISCOVER for \$ _____ (Amount).

Card # _____

Expiration Date _____

Credit Card Billing Address _____

To qualify for pre-registration, please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, by **12:00 pm December 17, 2013.**