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**THE NEWSLETTER OF THE
WESTMORELAND BAR ASSOCIATION
VOLUME XXVIII, NUMBER 5
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Westmoreland County Drug Treatment Court Now In Session

by Pamela Ferguson, Esq.

When asked why she hadn't worked in over a year or visited her two young children (ages 2 and 4), who were living temporarily with their grandmother, Kayla X replied, "Because I'm an addict."



▲ Pamela Ferguson

Satisfied that her response was sufficient to exonerate her of her failure to pay child support, Kayla stood up to leave. When told that she was facing a six-month period of incarceration for her noncompliance, Kayla seemed surprised, yet showed no emotion, expressing concern only for the inevitability of her impending heroin withdrawal.

While she elaborated on her criminal history—felony possession with intent to deliver, two retail thefts, and several probation violations—and tried to justify why she had failed to successfully complete a recent rehab program—they had been mean to her—they picked furiously at a small red bump on her cheek, stopping only when she noticed blood on her fingernail. Within five minutes, it became apparent that the threat of incarceration would offer no incentive to her to start

complying with her child support order. The only thing she seemed to care about at that moment was how hungry she was and how delicious the apple on my credenza looked. Her teeth, pocked with decay, didn't seem strong enough to handle applesauce, let alone a red, hard, Delicious apple, but I gave it to her anyway.

After serving six months in Westmoreland County Prison for nonpayment of support, Kayla X emerged clean, sober, and homeless, destined to return to the same "friends" with whom she had previously shared her drug addiction.

And so begins the cycle all too familiar to those who work in the criminal justice system.

Despite the efforts of caring and concerned individuals who work to rehabilitate and integrate offenders who are struggling with addiction, and despite the good intentions of the offenders themselves, who during periods of sobriety desire a return to normalcy, successful rehabilitation is rare or, if attained, fleeting.

The sole impediment to their success is the addictive quality of their drug of choice (heroin, crack cocaine,

prescription opioids) that strips them of rational thought and makes them care only about finding their next fix, increasing their rate of recidivism and risk of overdose death.

This is the story of a high-risk offender; a story played out in our courtrooms every day; a story that confounds and frustrates those trying to facilitate their rehabilitation. But, there is hope.

On October 7, 2015, after a year of hard work and careful planning, Westmoreland County's Drug Court Committee unveiled our county's

first Drug Treatment

Court. Under the auspices of Judges Meagan Bilik-DeFazio

and Christopher

Feliciani, Drug Treatment Court is a collaborative program of intensive judicial oversight, court supervision, and treatment facilitated by an eleven-member team¹ that works

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¹ The team consists of Judges Bilik-DeFazio and Feliciani; Drug Court Coordinator Eric Leydig; Case Manager Margaret Graytok; Adult Probation Officers Keri Mace and Bill Shifko; Assistant District Attorney Pete Caravello; Public Defender Tamara Mahady; Detective Tony Marcocci; Veterans Justice Outreach Specialist Keather Likins; and Director of Community Prevention Services of Westmoreland Tim Phillips.

President's Message

Building A Strong Foundation

by Maria E. Soohy, Esq.

The attorneys and judges of the Westmoreland Bar Association through its charitable arm, the Westmoreland Bar Foundation, are committed to providing leadership and resources designed to:

- **Improve access to justice for citizens of Westmoreland County,**
- **Promote public understanding about the law,**
- **Support good works that benefit the community.**



The Westmoreland Bar Foundation, as you can see by its mission statement, is really comprised of all of the attorneys and judges who are members of our Bar Association. Along with its various projects, the Foundation has financially supported our Pro Bono Program, the awarding of scholarships, the Bar Family Assistance Program, and

the newly created Westmoreland County Drug Court.

Prior to my service on the Bar Association Board, I had the opportunity to serve as a Trustee on the Foundation Board for over twelve years. That experience has been invaluable, and I learned all too well the struggles of a "charitable arm." Yet, with the support of our members, the Foundation has been instrumental in not only the success of charitable programs, but also in providing the financial resources necessary to operate our Pro Bono Program.

I cannot say enough good things about how our Pro Bono program is functioning. Under the direction and volunteer service of Pro Bono Director David Millstein, the program has changed its approach and is flourishing, exhibiting renewed vitality. The Trustees of the Foundation continue to work hand-in-hand with Attorney Millstein, Pro Bono Coordinator Amanda Stein, and Assistant Pro Bono Coordinator Terrilyn Cheatham, thereby assuring both the success of the program and continued access to legal services to those with little or no financial means. There are challenges, but we have a great team that pulls together and gets results.

Over the years I served on the Bar Foundation Board, I had the opportunity to serve with Trustees who are some of the most well respected lawyers, judges, and community members. The following individuals comprise our current Foundation Board: Bruce Tobin, Chair; Jason Yuhas,

Treasurer; Diane Krivoniak, Secretary; Timothy Geary, Vice Chair; David DeRose, Assistant Treasurer; Dr. Kathleen Kelley, Assistant Secretary; Attorneys James R. Antoniono, Diane E. Murphy, Todd T. Turin, Richard H. Galloway, William J. McCabe, Terence O'Halloran, and The Hon. Christopher A. Feliciani; Community Members Lois Sayers, Janice Galloway, and Caleb Crousey; and Ex-Officio members, Attorneys Marnie Abraham, Gary Falatovich, Dan Joseph, Jack Bergstein, and The Hon. Daniel Ackerman.

The Foundation recently held a planning retreat where the Trustees focused on the importance of educating the community and the Bar Association members about its work, and also addressed strategies on how to better raise funds to sustain community service programs including the Pro Bono Program.

One way to support the Foundation programs is to celebrate the holiday season with your colleagues by attending this year's Holiday Dinner Dance. We are holding this traditional holiday affair on December 5, 2015, and for the first time, it will be held at the famous Oakmont Country Club. As part of the festivities, there will be a Silent Auction, where all proceeds benefit the Westmoreland Bar Foundation. Of course, neither the Dinner Dance nor the Silent Auction can succeed without your attendance. Invitations will be sent out in early November, but I wanted to take this

opportunity to personally invite all of you. I feel confident you will enjoy the new venue, the outstanding meal, and the entertainment that is being planned for your pleasure. You may even find an auction item that appeals to you and will know that your generosity goes a long way in reaching out to those who are less fortunate.

I want to thank all of the Bar Foundation Trustees for their continued commitment and involvement in what at times can be a daunting task. The Foundation Board is always seeking new members from the general membership of the Bar Association, as well as from the community. If you have any interest in serving as a Foundation Board Trustee, or have a suggestion from the community, please contact any of the Trustees.

I look forward to seeing you on December 5, 2015, and further look forward to your continued involvement in both the Bar Association and Bar Foundation activities. ■



Remembering Thomas A. Himler, Jr.

Editor's note: Thomas A. Himler, Jr., passed away Monday, May 4, 2015. He is survived by his wife of more than 43 years, Kay; his sister, Ruth Ann Jones and her husband, Russell; niece, Deana Krinock (Tim); nephew, David Jones (Sandy); niece, Rebecca Olson (Bob); three brothers-in-law, Walter Dean Miller, Ernest Guter (Irene) and Richard Guter (Ruth); and a nephew-in-law, Keith Vaughan. Memorial contributions may be made to the Derry Township Agricultural Fair, PO Box 261, New Derry, PA 15671 or to the Juvenile Diabetes Research Foundation at www.jdrf.org.

by The Hon. John E. Blahovec

Thomas A. “Buzz” Himler, Jr., died on Monday, May 4, 2015, at his home in Latrobe. Tom was a prominent attorney in the Latrobe area since 1971, specializing in estate planning, business transactions, and real estate. A member of the Westmoreland Bar Association throughout his career, Tom served as Derry Township Solicitor for many years, was a former Assistant District Attorney under both Al Nichols and John Driscoll, and served as a law clerk for Judge Gilfert M. Mihalich and for me.

I first met Tom during a civil case in the late seventies. I was representing clients who were building a home in a local development and Tom represented the builder. My clients kept requesting change orders and upgrades which the builder obligingly provided. However, my clients maintained they should not have to pay for the upgrades. Tom scheduled a meeting at the site to try and resolve the matter, but despite his calm, reasoned approach, no settlement could be had. I eventually got fired and Tom won a verdict for the builder at trial. The buyers’ new attorney noted in his closing that: “A man’s home is his castle.” Tom’s closing was very brief and to the point, and he ended with:

“Yes, a man’s home is his castle, but the man who builds the castle deserves to be paid!”

When John Driscoll became District Attorney, Tom was one of the assistants he retained along with Tim Gearsy. I was one of the new assistants John hired, and Tom, Tim, and I became close friends. We shared many dinners together with our wives, and we shared some good liquor and hearty laughter. When I decided to run for Judge, Tom and Tim were my key campaign people in Derry Township and Vandergrift. I owe a great portion of my success to these guys. Tom became my first law clerk and served until Tim’s son Timmy took over. Tom did not do a lot of family law, but his common sense and good judgment made him tremendously valuable to this new Judge.

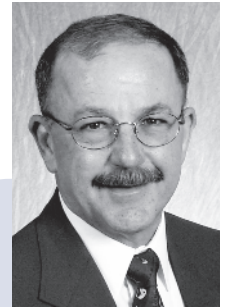
Tom was married to his wife, Kay, for over 43 years. They had no children, but were very close to their nieces and nephews. Lots of us took to calling Tom “Uncle Buzz” because he made you feel part of his family. Tom and Kay were avid outdoors people. They spent many happy hours at the Himler family farm near Blairsville, and invited friends to join them. My daughters, Becky and Rachel, learned where milk came from by watching Tom’s mother milk the family dairy cows. Tom and Kay’s leisure hours were

spent with their beloved Brittany Spaniels, Dusty and Mandy, and later on with their beautiful chocolate Labrador Retrievers, Kristy and Kara. Tom was an excellent pistol shot and a fine trap shooter. He generally behaved himself around Kay because he knew she was better at both.

Tom became business partners with Lud Druchniak in the automobile business in 1998 when they purchased Brookville Chevrolet in Jefferson County. Two years later, they added Pontiac, Buick, and Chevrolet to the business at the same location. On May 1, 2006, they bought the Colonial Chevrolet and Ford dealerships across from the Latrobe Airport. Uncle Buzz bought a lot of new cars for nieces, nephews, friends, and the children of friends—always new cars, never used. Looking back on the years together, Lud stated: “We made a lot of money and had a lot of fun.”

Lud shared Tom’s love of golf. Tom became part of a group of Latrobe golfers who annually travelled to New Market, Va., to a golf resort at the foot of the Blue Ridge Mountains, just below Skyline Drive called Shenvalee. Lud made the trip with Tom more than twenty times and I made the trip with them for many years. Every member of the group had several custom-made Himler clubs in their bags because Uncle Buzz thought they might be of help.

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▲ Thomas A. Himler, Jr.

the sidebar

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Remembering David R. Gold

Editor's note: David R. Gold passed away on Thursday, August 6, 2015. He is survived by his wife, Nancy; his daughter, Carolyn Aberman (Jonathan), of Chicago, and their children Leah, Aidan, and Carly; his son, Andrew (Amanda), of San Francisco and their son, Joshua; and his son, Roger of San Francisco and his children, Teddy and Catherine.

by Nathan Abromson, Esq.

I have been practicing law since 1973, and my father before me [Henry Abromson] had his distinguished career in law from 1938



▲ David R. Gold

to his death in 1978. From David Gold's first days in practice, in 1962, he and my father partnered in many cases and shared a close father/son-like relationship.

In 1973, when I joined my father in his practice, David was asked to mentor this inexperienced and very green, young law school graduate in basic litigation skills. With patience and zeal, he did so, and for his efforts and for all he taught me, I shall be forever grateful.

For the next three decades, David and I partnered in literally dozens and dozens of cases, mostly personal injury. Due mostly to his tireless energies and stellar legal skills, we prospered and, actually, throughout the course of thirty years of joint efforts, we never lost a single case.

David was a pleasure to work with. We rarely had a difference of opinion and never had an unresolvable disagreement. The very few times we disagreed had mostly to do with the division of the legal fees payable to us after one of our successful efforts—and that was because David invariably insisted that my share of the fee be far larger than I deserved. And he wouldn't take no for an answer.

David spent forty or so of the most productive years of his life practicing

law and aiding others in that noble pursuit. But he did more than simply practice law. He did more than even practice law very successfully. David pursued our profession like he pursued everything else in life—with a boundless energy and an unrestrained passion. This made him an invaluable professional ally, a most formidable professional adversary and a most exemplary role model for the young lawyers around him, all of whom admired and respected David very, very much.

David was an accomplished legal tactician. He knew the Rules of Civil Procedure like the back of his hand, and he used that thorough knowledge to devise the most effective legal strategies permitted under the Rules in furtherance of his client's cause. David was more than merely a master of these Rules. He actually helped formulate portions of them, having been an appointee to the various commissions established for their

creation. He was a respected legal scholar, a former University of Pittsburgh School of Law Law Review Editor, and the long-time law clerk for the President Judge of our county, our mutual friend David Weiss, who, I might add, often spoke with great praise of David's contribution to the operation of his Courtroom and his dispensation of justice.

With all that in mind, it's no surprise that David was held in the highest esteem by his colleagues and considered to be what's known as a "lawyer's lawyer." When even the most experienced of our colleagues were confronted with an unusually vexing and complex legal scenario, it was David Gold they would consult for guidance. He would untangle the most eye-crossing legal scenarios, analyze the most perplexing legal issues, and provide the correct legal analysis without fail. He was the "go to guy" for even the best and the brightest in our county, for truth be told, it was David Gold who was, in fact, the very best of our county's "best and brightest."

David's wisdom and insight made him not only a successful litigator but,

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1215–2015: 800 Years of Democracy

Overlooking the Magna Carta

by *The Hon. Daniel J. Ackerman*

A lawyer with a good idea may make history, or create a monument to it.

In 1957, in an otherwise unmarked field adjacent to the Thames, twenty miles west of London, an obelisk was set into place under a circular stone pavilion. Far from American soil, the American Bar Association



▲
The Hon. Daniel J. Ackerman

created a memorial at Runnymede, celebrating not a military victory, but the creation of a contract. For it was here on June 15, 1215, that King John placed his seal on the law's most transformative document—the Magna Carta.

The Washington, D.C., lawyer who pursued this idea was Charles S. Rhyne, a former ABA president, who was counsel to President Eisenhower, to whom he credited the idea. That no marker existed throughout the centuries since the king and his barons assembled there is almost beyond belief. Yet, even at the time, the consecration of the site was given only subdued recognition in the British press. The following day's edition of *The Times* recounted the celebration in a single column of twelve inches with a small photo, next to an article proclaiming, "Miss Smythe Wins in Exciting Climax to Horse Show."

Now, in 2015, the British have corrected their oversight by erecting a bronze statue of Queen Elizabeth II acknowledging the Crown's acceptance of the rule of law. Medieval historian Daniel Hannan dryly noted: "We British have, by any measure, been slow to recognize what we have." If American lawyers and judges recognize

what we have, for the most part, we have been dilatory in learning how we obtained it.

Medieval documents are seldom, if ever, cited as authority in modern legal arguments, briefs, or opinions. But we should not forget that the Magna Carta, which attained octocentenary status this year, institutionalized a guiding principle for English-speaking

peoples around the world—the law stands above the government.

"The Great Charter," as you would guess from its historic title, was written in Latin, not English, and its 3,550 words created a contract between parties whose spoken language was French (English was used exclusively only by the peasantry). Further, the

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Overlooking the Magna Carta *continued from page 5*

term “Magna Carta” is not to be found within the four corners of the document; rather, it is derived from how the Charter was described by others.

It may come as a surprise, or even a disappointment, to learn that in a document pronouncing fundamental protections against arbitrary and tyrannical rule, most of the Charter’s 63 chapters, which were unnumbered at the time, are mostly about money; ranging from taxation to the placement of fish weirs on the Thames. The principal object of the earls and barons who championed the creation of the Charter was to restrict the king’s ability to take money from his subjects. It is a fact which shouldn’t shock us. Little has changed in 800 years, and then, as now, the great majority of public issues and a substantial number of private ones, regardless of how they are dressed up, are, in fact, about money.

King John’s rapacious desire for funds cannot be entirely blamed on him; it began with the spending of his father, Henry II, and subsequently that of his older brother, Richard, “the Lionhearted.” Richard spent freely to finance his Crusade, not to mention the draw on the treasury needed to ransom



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▲ In 1957, the American Bar Association erected this memorial at Runnymede to celebrate the signing of the Magna Carta in 1215.

him from his captivity in Germany. On his return—after reversing John’s usurpation of the throne, and forgiving him (“He is only a boy,” Richard reportedly said)—Richard spent even more on unsuccessful continental wars which resulted not only in his death, but in England’s eventual loss, during John’s reign, of its claim to Normandy. To these financial burdens there was added the complication of a great inflation which tripled prices shortly after John reclaimed the crown in 1199.

John began his reign with these disadvantages, which he promptly made worse, for both his policies and his personality proved unpopular. Of all the financial burdens he imposed upon his subjects, the most damaging was his tax of 1207, which was to be paid by “every layman of all England of whomsoever’s fee he may be.” The tax was 13% of the value of all rents and all movable chattels, which included both crops and animals. It was one of many taxes imposed, along with scutage, a tax imposed for the avoidance of military service by barons and knights.

Even more repugnant than excessive taxation was the king’s penchant for creating laws and rules according to his whim and then devising his own form of punishment for transgressors. Before his reign, such conduct was considered a prerogative of the monarchy, but he resorted to it to an unprecedented degree. Should a nobleman do anything to arouse John’s anger or disfavor, a fine was levied against him in an amount decided by the king, the payment of which was required if the man was to return to the king’s good graces. John also blatantly increased the practice of taking members of noble families hostage as security for peaceful conduct or faithful service.

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Equally insidious was John's meddling in the judicial system, which he used as another source of revenue. So as never to be far from the action, he required that the common pleas court follow his person as he traveled throughout the realm.

For the most part, the general run of cases went through the system quickly and cheaply without interference from the king. However, if the case had political implications, or if earls or barons were litigants, which would necessitate a trial in the king's courts, instead of common pleas, John extracted a price. This was done openly, and was accompanied by pretentious formalities, with noblemen tendering the requested funds in exchange for "having the reasonable judgment of his peers," to "help him have his right in those things which he claims," or "to be treated justly according to the custom of England."

It was also possible to pay simply to stop a case from proceeding further. Competing offers from opposing litigants were welcome, and a contingent fee was even employed where the supplicant would pay a certain amount if he prevailed, and a lesser amount if he did not. Despite all his high-handed methods, John's problem was still money.

It seems he had failed to learn from his older brother's mistakes and continued England's misadventures on the continent to the extent that when he returned to England in October 1214, he found his treasury depleted, his revenue diminished, and his reputation in tatters. In his weakened state, opponents began to consolidate their grievances, which would turn into demands, and simultaneously plotted for the creation of a sufficient force to coerce him.

By Easter 1215, the dissident barons had marshaled an army and sent to John a schedule of their demands. His response was to suggest a resolution of their complaints through arbitration before four barons chosen by him and four chosen by "the barons against us," with the Pope presiding over all of



▲ "King John Granting Magna Carta" from the fresco in the Royal Exchange (1900).

them. Believing that the Pope would favor the king, the barons rejected the offer. The insurgent army then took control of London, which tended to favor the barons over the king. John recognized that he was now engaged in a civil war, and that it was unlikely he would prevail, for his supporters were beginning to desert him.


This brought the antagonists to neutral ground at Runnymede for the purpose of re-establishing the peace.

The setting was hardly what would be expected for diplomatic negotiations, for the rebels made Runnymede an armed camp, putting pressure on the king to agree to the Articles of the Barons, which contained their demands. While there was some give and take, 56 of the 63 chapters in the Charter were founded on the Articles of the Barons.

The concessions of John in the Charter mark it as one of the most important documents in constitutional history. In it he wrote, "We have also granted to all the free men of our kingdom, for us and our heirs in perpetuity, all the below written liberties." A caveat is needed here. The liberties given were for the benefit of the nobility. Reference to "free men" excluded the peasantry, who were not free. Yet, for its time, it was an almost unimaginable step toward democracy and the rule of law. A few of the most interesting and important chapters are set forth here:

17. *Common pleas are not to follow our court but are to be held in some specified place.*

20. *A free man is not to be amerced [i.e. punished by a penalty imposed at the discretion of the court] for a small offence, and only in accordance with the degree of the offence; and for a great*
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Overlooking the Magna Carta *continued from page 7*

offence, he is to be amerced according to the magnitude of the offence ...

21. Earls and Barons are not to be amerced save by their peers, and only in accordance with the degree of the offence.

27. If any man dies intestate, his chattels are to be distributed by the hands of his nearest relations and friends, under the supervision of the church, saving to each person the debts which the deceased owed him.

30. No sheriff or bailiff of ours or anyone else is to take the horses or carts of any free man for carriage, save with the consent of the free man himself.

38. No bailiff is henceforth to put anyone to law on his sole accusation without trustworthy witnesses brought forward for this.

39. No free man is to be arrested, or imprisoned, or disseised, or outlawed, or exiled, or in any way destroyed, nor will we go against him, nor will we send against him, save by the law of the land.

40. To no one will we sell, to no one will we deny or delay, right or justice.

42. It is to be allowable for anyone henceforth to depart from our kingdom, and return safely and securely, by way of land and by water, saving our faith, save in time of war for some brief time....

45. We shall not make justices, constables, sheriffs or bailiffs, save from those who know the law of the kingdom and wish to observe it well.

52. If anyone has been disseised or dispossessed by us, without lawful judgment of his peers, of lands, castles, liberties or his right, we will restore these to him immediately....

The concluding paragraphs may be summarized as follows: Chapter 61, known as the Security Clause, gives to twenty-five barons, to be selected, the responsibility of overseeing and enforcing against the king, if need be, the mandates of the Charter. Chapter 62 pardons the rebels, and 63 commands that the English church

be free and that the rights designated will continue in perpetuity.

The Magna Carta was sealed (not signed) as was the custom, the barons reaffirmed their allegiance to the king, and a grand banquet was held at Runnymede. Were this a motion picture, they would be running the credits—but it wasn't the end.

The armed masses withdrew in peace from Runnymede on June 19, but, as is often the case with the implementation of contracts, it wasn't long before each side began faulting the other for a material breach of its terms. John suffered from buyer's remorse: the twenty-five barons proved to be arrogant and dismissive of his prerogatives, and due to the ill service of his advisors, he felt he had given too much away. John's commitment to the Charter appeared superficial. He wanted the peace it might bring, but not its implementation, especially not the creation of a parallel body which

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Master's degree in Electrical Engineering from Drexel University
J.D. from Temple University
Chemistry studies at University of Pittsburgh
Registered Professional Engineer (Pennsylvania)
Formerly Assistant Professor at Villanova University
Formerly Doctoral Candidate in Mathematics at Bryn Mawr College

would interfere with his running of the kingdom. Further, hadn't the rebel barons failed to disarm?

By August, John appealed to the Pope to quash the Charter. Innocent III complied, issuing a bull stating that John had been forced to accept a shameful, demeaning, illegal, and unjust agreement, harmful to royal rights and the English people, and declaring the Charter "null and void of all validity forever." Excommunication of the rebel barons followed.

John had taken steps to secure English ports, and to obtain a loan to secure a mercenary force on the continent to come to his aid. The opposition declared John deposed and elected Prince Louis, the son of the king of France as his successor. The civil war was renewed.

May of 1216 brought Prince Louis with a large French force into England, causing the retreat of the army loyal to John. The die was cast: John's army was thereafter continually on the defensive, and the king, who was suffering from dysentery and who was carried on a litter, died on the night of October 17–18. Surprisingly, John's death ruined Louis's hopes for the English throne, as both the rebels and the remainder of John's supporters came together in agreement for the coronation of John's nine-year old son as Henry III.

The Magna Carta of 1215 survived, though it was modified several times during its first decade in 1216, 1217, and again in 1225. The Charter of 1225 cut or revised about a third of the 1215 Charter and expanded some of the liberties granted, but without the Charter of 1215, there would not have been, at least for a long time, any other document like it.

The influence of the Charter has waxed and waned over the centuries, with long periods where it was either overlooked or simply viewed as a curiosity. The extension of its rights to all Englishmen is credited to Sir Edward Coke, chief justice of the King's Bench, and didn't occur until the early 17th century. But its greatest regeneration occurred on the other

side of the Atlantic when it influenced the drafting of most of the state constitutions in the colonies, and later the U.S. Constitution as well. And, where constitutional governments exist, it may be argued that the Charter was the forerunner of judicial review—the power to strike legislation which is in conflict with those constitutions.

On Westlaw you will find 173 Pennsylvania opinions citing the Magna Carta, and a recent issue of the *PBA Quarterly* references numerous instances of its modern application. But in some cases, litigants, not to mention lawyers and judges, have ascribed to it more credit than is due. It is, for example, at times argued as giving rise to the writ of habeas corpus, which wasn't recognized until 1305, ninety years after the Great Charter.

Such errors, however, are both trivial and understandable, for the Magna Carta has become one of the great icons of the law, perhaps more so here than in its country of origin. It will always be, as Sir Robert Worcester noted, "Britain's greatest export." ■

SOURCES

- Bolderson, Claire. "Britain prepares to celebrate milestone for Magna Carta." *Pittsburgh Post-Gazette*. 10 June 2015.
- Bolderson, Claire. "Historic document receives royal treatment in Runnymede." *Pittsburgh Post-Gazette*. 16 June 2015.
- Carpenter, David. *Magna Carta*. Penguin Classics, 2014.
- "Charles S. Rhyne Dies," *American Bar Association Journal*, September 2003.
- Gillingham, John. "The Anonymous of Bethune, King John and the Magna Carta." *Academia.edu*. Web. 9 June 2015.
- Goldman, Lawrence. "The Charter of Liberty, Powered by Ideals." *Pittsburgh Post-Gazette*. 15 June 2015.
- Hannan, Daniel. "Eight Centuries of Liberty." *Wall Street Journal*. 30 May 2015.
- "Homage to the Rule of Law: U.S. Lawyers' Magna Carta Memorial." *The Times*. 27 July 1957.
- Lepore, Jill, "The Rule of History: Magna Carta, the Bill of Rights and the hold of time." *The New Yorker*. 20 April 2015.
- Martin, Thomas E., Jr. "Citing the Magna Carta—The Validity of the Great Charter in Pennsylvania Today." *PBA Quarterly*. July 2015.
- Will, George F. "What the Magna Carta started." *Pittsburgh Post-Gazette*. 15 June 2015.



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Drug Treatment Court *continued from page 1*

independently with high-risk/high-needs² participants and meets conjunctively, as a team, to oversee case management for those individuals accepted into the Diversionary and Intermediate Punishment (IP) Programs, the two avenues currently available for participation in Drug Treatment Court.

Both programs are similar in content. The main difference between the two programs is in the resolution of the participant's criminal charges. Potential participants in the Diversionary Program enter the program before disposition of their charges; therefore, their incentive to successfully complete the program is the ultimate reduction/dismissal of their charges. Participation in the IP Program is ordered as a condition of their sentence; therefore, participants successfully complete the program to avoid incarceration.

Despite the differences in methods of entry, referral to the program through either Diversionary or IP can occur at the preliminary hearing, which offers the potential participant

the opportunity for immediate drug and alcohol treatment. Unlike current programs, where treatment typically isn't obtained until after formal disposition—months after their arrest—entry into Drug Treatment Court provides for treatment shortly after referral at the preliminary hearing, on average, two weeks after an arrest. This is a significant distinction because one of the goals of the Drug Treatment Court is to reduce the number of overdose deaths in our county, and the sooner treatment is obtained, the more likely this goal will be met.

Another goal of the Drug Treatment Court is to decrease the participant's reliance on social and human services and increase their ability to live independently and responsibly. The team believes this can be accomplished through advances in education (obtaining a GED or trade certification), and procurement of employment and permanent housing—goals not easily attained by high-risk individuals because of their significant criminal histories.

Since adding another felony drug conviction to their record may be the proverbial “nail in the coffin” that forever closes the door to legitimate employment and stable housing, and pushes the offenders back into the arms of their negative peer groups, District Attorney John Peck has agreed, upon



² Only those individuals who are considered high risk (still using drugs; high school drop-outs; unemployed; homeless; lacking family support and associating with negative peer groups) with high needs (those needing a minimum of intensive outpatient treatment) are eligible for the program.

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▲ A CLE was held at WBA Headquarters on August 27 with Judge Feliciani, Judge Bilik-DeFazio, and Drug Court Coordinator Eric Leydig explaining the structure of the Drug Court program.

successful completion of the Diversionary Program to reduce and, in some cases, dismiss the participant's criminal charges. By removing the impediment of additional convictions, it is hoped that the offender will obtain legitimate employment and stable housing and that these positive influences on their lives will give them strength to fight the lure of getting high, reducing their risk of overdose death and recidivism—another goal of the Drug Treatment Court.

Studies have shown that penalty mandates increasing periods of incarceration enacted in the 1980s and 1990s, have had no effect on reduced drug use or recidivism.³ According to the Bureau of Justice Statistics, August 2014, “67.8% of the 404,638 state prisoners released in 2005 in 30 states were arrested within three years of release and 76.6% were arrested within five years.” Kayla X is a perfect example. She had three incarcerations in three years.

In determining how best to reduce the high rate of recidivism, the Drug Treatment Court team chose to include positive reinforcement in lieu of stiffer penalties. Unique to this Court, participants will be rewarded for good behavior instead of only being punished for bad. Rewards in the form of gift cards, waivers of participation fees, and judicial recognition will be given to those who consistently attend treatment, provide clean urine screens, and obtain advancements in their education, employment, and/or housing.

That is not to say that negative behavior will be ignored. Consistent failure to comply with the team's recommendations will result in the participant's termination from the program, exposing them to reinstatement of the original charges or incarceration for probation violations.

Drug Court Coordinator Eric Leydig is excited to see whether positive reinforcement encourages compliance more effectively than sanctions. “All the years that I've worked in Probation, all I've ever done was bring problematic cases before the Court and recommended sanctions. I've rarely had the opportunity to present testimony that was positive. The Drug Treatment Court will provide an opportunity for the Court to hear how the participant is progressing through

the program and also provide incentives to reward positive conduct.”

Everyone on the team is aware of the difficulties they face. Not only are they dealing with a population that is high risk—just one step away from an overdose—they are asking a lot of their participants, who are barely able to subsist, let alone thrive, in an intensively scrutinized environment for eighteen months. They will undergo drug and alcohol and/or mental health treatment, drug abstinence, and biweekly court appearances to assure the Judge of continued compliance or offer an explanation for noncompliance; work with the Case Manager to access available resources and support services to obtain skills necessary to achieve and maintain self-sufficiency and recovery from substance abuse; and meet with a peer-based Certified Recovery Specialist (former addict), the Drug Court Coordinator, and Probation Officers to maintain compliance with the program requirements and successfully complete the program.

Clearly, these programs are not a walk in the park, and shouldn't be used merely to avoid incarceration. But, if followed, hopefully these programs will provide participants with the right tools and support to overcome their addictions and become productive members of society.

Perhaps Kayla can benefit from the program. A perusal of Westmoreland County Prison's Public Inmate Search confirmed her reincarceration, this time for a probation violation and new drug charges. It's clear from her mug shot that she's using again.

Expressing tempered optimism, Judge Meagan Bilik-DeFazio acknowledged that it isn't going to be easy and that despite expected growing pains, she believes in the program: “If we can save just one life, it's been worth it.” ■

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³ Pew Trust Public Safety Performance Project, August 2014.

Practice Tips

Drug Court: The More You Know

by Pamela Ferguson, Esq.

Westmoreland County's new Drug Treatment Court opened its doors on October 7, 2015. Criminal defense



Pamela Ferguson

attorneys representing clients who are facing charges arising out of a drug and/or alcohol addiction, in need of at least intensive outpatient treatment, and have no history or present charges for violent behavior, should consider the Drug Treatment Court's two programs:

Diversionary and Intermediate Punishment (IP).

There are certain charges that render individuals ineligible for the program. Those excludable charges can be found

in the online Drug Treatment Court handbook, located on Westmoreland County's website (www.co.westmoreland.pa.us) under the Adult Probation tab.

THE DIVERSIONARY PROGRAM

The Diversionary Program was established to cut down on the time it takes to get offenders with substance abuse issues into appropriate services after their arrest to reduce their risk of overdose. Unlike the current system, where treatment typically isn't obtained until after formal disposition, which on average is more than four months after their arrest, the Diversionary Program provides for referral to Drug Court at the preliminary hearing and admission into treatment, if accepted into the Program, shortly thereafter.

Anyone can refer the offender to Drug Court. Either the private defense counsel, public defender, police officer, ADA, or Defendant completes the

written referral and presents it prior to the preliminary hearing to the Magisterial District Judge (MDJ), who, upon consent of the ADA, faxes the referral to the Drug Court Coordinator, Eric Leydig, and continues the hearing for five weeks.

If the ADA consents to the Defendant entering the Diversionary Program, the referral is sent to the Drug Court Coordinator, who determines whether the individual satisfies the requirement for high risk¹. Drug Court Case Manager Margaret Graytok follows with an assessment of the individual's needs. Only those needing intensive outpatient services or greater will be eligible for Drug Court.

¹ Assessment of the offender's risk is done by applying the Ohio Risk Assessment System (ORAS), which considers several criminogenic risk factors, such as: the offender's criminal history, education, finances, employment, family support, peer association, and attitude.



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If the individual meets the requirements of both assessments for entry into the program, the Case Manager will facilitate completion of all financial forms necessary to obtain the requisite funding and arrange for the appropriate treatment, while the Coordinator will schedule the case before the Drug Court Judge. If the potential participant has served in the military, Keather Likins, Veterans Justice Outreach Specialist, will meet with the offender to determine whether any VA benefits and/or programs are available to complement treatment.

Upon obtaining approval for entry into the Drug Court Program, the participant must waive his/her preliminary hearing, meet with the assigned probation officer, and agree to the Drug Treatment Court's terms, including waiving Rule 600 (the right to a speedy trial).

If the individual is determined to be ineligible for the program—he/she has a present or past history of violence, possessed/used a weapon in the commission of any offense and/or faces or has a prior conviction of excludable offenses²—a request for reconsideration may be submitted to the Coordinator within thirty days of the date of ineligibility. The team will review the reconsideration and render a final decision; however, the process of reconsideration does not continue the preliminary hearing or further disposition.

Once accepted into the Diversionary Program, the Participant will be required to comply with all of the recommendations of the team, including intense supervision, attendance at all treatment programs, accountability to the court through biweekly court appearances, and random drug screens. However,

² Excludable offenses are enumerated in the *Westmoreland County Drug Treatment Court Policy and Procedure Handbook* that can be found on the Westmoreland County website (www.co.westmoreland.pa.us) under the Adult Probation tab.

since the Court is working with high-risk individuals, it is expected that they will relapse. Noncompliance will not result in immediate termination from the program; instead, sanctions, including community service, will be imposed. Consistent noncompliance will result in termination

from the program. Conversely, and unlike any other court program currently in operation, positive

reinforcement—rewards in the form of gift cards, waivers of the \$40/month participation fees, and judicial recognition of accomplishments—will be awarded for sustained success: consistently attending treatment, providing clean urine samples, or obtaining advancements in education (GED or trade certifications), employment, and permanent housing.

In addition to drug and alcohol and/or mental health treatment and biweekly court appearances to assure the Judge of continued compliance or offer an explanation for noncompliance, participants will work with the Case Manager to access available resources and support services to obtain skills necessary to achieve and maintain self-sufficiency and recovery from substance abuse. The Case Manager,

in conjunction with a peer-based Certified Recovery Specialist (former addict), will monitor treatment attendance/compliance, as well as involvement in recovery-oriented services and self-help groups, while working closely with the Drug Treatment Court Coordinator, the participant's Probation Officers and treatment providers to facilitate successful completion of the program.

District Attorney John Peck has agreed that upon successful completion of the eighteen-month Diversionary Program, the participant's Felony Possession with Intent to Deliver and Delivery of a Controlled Substance charges will be reduced to a misdemeanor and/or misdemeanor charges will be dismissed. Termination from the program will result in the reinstatement of the initial charges and scheduling of the Preliminary Hearing.

THE INTERMEDIATE PUNISHMENT PROGRAM

Entry into the Drug Court through the Intermediate Punishment (IP) Program requires the participant to enter a guilty plea to some or all of the crimes for which he/she has been charged and be sentenced by the Drug Treatment Court Judge to a term of Intermediate Punishment (IP) with

continued on page 14

practice tips

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Drug Court: The More You Know *continued from page 13*

Drug Treatment Court. This avenue of entering Drug Treatment Court is designed for offenders who are facing incarceration in a county facility and have not demonstrated a present or past pattern of violent behavior.

Entry to Drug Court through IP begins similarly to the Diversionary program: A referral is made to the MDJ at the preliminary hearing. Upon consent of the ADA, the MDJ continues the preliminary hearing for five weeks to allow the offender to be assessed for risk and need and to allow the team to decide if he/she should participate. Upon request of the continuance and referral to Drug Court, the MDJ will impose basic Drug Treatment Court bond conditions upon the offender, who must sign a form agreeing to the bond conditions, including participation in any recommended drug and alcohol treatment, abstinence from drug or alcohol use, communication with the Coordinator before changing his/her address or phone number and waiving Rule 600. If the offender is incarcerated at the time of referral, he/she will remain incarcerated until a determination is made by the team.

The screening process for IP entry is the same as for entry through the Diversionary program: a referral is made to the Drug Treatment Court Coordinator, who presents the

assessment results to the team, who in turn, make a decision regarding entry into the program as a condition of the participant's sentence. The potential participant is scheduled for the next available Drug Treatment Court proceeding, during which formal entry will be approved. If he/she is incarcerated at the time of the referral, the Drug Court Coordinator will make arrangements for transportation for the next available Court date.

Successful completion of the program allows the participant to avoid incarceration; termination from the program is treated as a violation of probation and may result in incarceration.

THE FIVE PHASES OF THE PROGRAMS

Both the Diversionary and IP Programs are eighteen months long and are broken down into five different phases, during which the participant must abide by all of the rules with recommended treatment plans, pay participant fees, attend case management appointments, Drug Treatment Court sessions, and recommended support groups, meet with Drug Treatment Court staff and a Certified Recovery Specialist as directed, submit to

random urine screens, report to a probation officer, and comply with randomly scheduled home/work visits.

Phase I takes a minimum of sixty days and addresses the participant's immediate need for intensive treatment. Establishing a firm foundation for recovery is one of the primary goals of Phase I.

During Phases II and III, which last a minimum of ninety days each, in addition to continuing with treatment, participants will be required to create and implement a payment plan for all costs, fines, and restitution; focus on education, employment, or community service; and attend at least one social activity each week.

During Phases IV and V, in addition to their treatment, participants must be enrolled in educational programs, employed, or performing community service. The length of these phases, like the preceding three phases, depends upon the participant's progress and lasts a minimum of ninety days each.

Successful completion of the program is celebrated through formal graduation ceremonies during normal Court sessions. All participants are required to attend. Upon graduation, all participants will complete an exit interview with the Drug Treatment Court Probation Officer or Coordinator. ■



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SEPTEMBER 2015 TRIAL TERM

Of fifteen cases listed for the September 2015 Civil Jury Trial Term, five settled, seven were continued, one was dismissed, and two resulted in jury trials.

**KATHLEEN VANDERWEELE,
F/K/A KATHLEEN JERVIS**

V.

**MICHAEL J. BONK,
T/D/B/A BONK'S PLUMBING
AND HEATING COMPANY
NO. 4060 OF 2010**

*Cause of Action: Trespass—
Negligent Misrepresentation*

In 1998, Plaintiff purchased a home at 136 Rodgers Drive, Lower Burrell. She alleged that at the time of purchase, Defendant negligently and fraudulently misrepresented his verification that the house was properly connected to Lower Burrell's public sewage disposal system. Plaintiff avers that in 2009 she attempted to sell the property; however, another inspector informed her at that time that the house was not connected to the public sewage system. As a result, she had to spend \$12,599.00 to have the house connected to the public sewage system. Consequently, she sought monetary damages from Defendant.

Defendant denied the allegations and claimed that he performed all the required tests properly, maintaining that in 1998 the house was connected to the public sewage disposal system.

Trial Dates: September 8-9, 2015

Plaintiff's Counsel: David A. Colecchia, Gbg.

Defendant's Counsel: Paul D. Zavarella, Pgh.

Trial Judge: The Hon. Anthony G. Marsili

Result: Verdict in favor of Defendant.

JURY TRIAL VERDICTS



BY BETH ORBISON, ESQ.,
SHANE M. SARVER, ESQ.,
AND EMILY SHAFFER, ESQ.

IREP INDUSTRIAL INC.

V.

**SATISH B. KANAKAMEDALA AND
USHA KANAKAMEDALA, HIS WIFE
NO. 7569 OF 2012**

Cause of Action: Breach of Contract

Plaintiff was hired by Defendants to supply and install custom-made cabinetry in their 17,000-plus square foot residence in Murrysville. Plaintiff delivered all of the cabinets to the worksite where the home was under construction, but refused to complete installation after Defendants refused to assure Plaintiff that payment would be made. Although Defendants' construction manager approved all

the work and informed both parties that payment should be made, as of the date of trial, only \$88,000 had been paid on the account balance of \$130,000.

Defendants responded that all materials set forth in the contract were not delivered and that all contracted work was either not completed or done in a substandard manner. In addition, Defendants filed a counterclaim alleging breach of contract, breach of express and implied warranties, fraudulent misrepresentations, and violations of the Unfair Trade Practices and Consumer Protection Law.

Although represented by counsel, Defendants did not personally appear at trial. At the close of the Defendants' case, the Court granted Plaintiff's motion for a compulsory non-suit on the counterclaim.

Trial Dates: August 31-September 1, 2015

Plaintiff's Counsel: Jon M. Lewis, Gbg.

Defendants' Counsel: Gerald R. O'Brien, Jr., Irwin

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

Result: Verdict in favor of Plaintiff in the amount of \$46,204.34. ■

REQUEST FOR PROPOSAL Solicitor-City of Latrobe

The City of Latrobe, Westmoreland County, Pennsylvania, (a Home Rule Charter Community) is accepting resumes and applications for the position of City Solicitor. The Solicitor is the legal advisor to City Council and represents the legal interests of the City of Latrobe performing, but not limited to, the following duties; Furnish legal advice and opinions to Council, committees of Council, the City Manager and other employees in exercising official duties; Conduct the legal assignments of the City of Latrobe; The collection of all debts and accounts due which are placed for collection; Approve all surety bonds; The investigation and enforcement of any violation or alleged violation of the statutes of the Commonwealth of Pennsylvania, this Charter or ordinances of the City of Latrobe; Preparation or assistance in the preparation of ordinances, resolutions and motions; Complete other assignments as directed by Council. The City Solicitor must exercise considerable independent judgment in preparation of cases, legal research and project management, and must be self-motivated and highly organized.

This position will become available on February 1, 2016. A resume and letter of application must be submitted to Latrobe City Manager, on or before, **November 23, 2015**. Please indicate the basis for charging a fee for service. If based upon an hourly rate, please set forth the hourly rate in the letter of application. If you have any questions, or require additional information contact the Latrobe City Manager at 901 Jefferson Street, PO Box 829, Latrobe, PA 15650, (724-539-8548 ext. 17).

did you know?

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

Remembering Thomas A. Himler, Jr. *continued from page 3*

For many years, Tom and I were roommates at Shenvalee. Over the years, I could see Tom slowing down. Some days we would play 45 holes of golf, but as the years went on, Tom played less and less, eventually only putting during scrambles, and finally just riding in the cart and cheering us onward.

Tom suffered the effects of juvenile diabetes since his pre-teen years. As the years went on, the disease robbed him of his strength. Neuropathy robbed him of his feeling. Many times he was in unbearable pain. It was sad to watch this tough wiry farm boy and outdoorsman suffer and slow down. Even at his most painful times, he was still sharp with the wit and could pull a chain or two.

My best memories of Tom are sitting outside the motel room at

Shenvalee and swapping stories with the other guys. If B.S. were money, we would have bought the place. Then once inside the room, before turning out the lights, we'd talk about life, the state of the world, my daughters, my Marylou, and his Kay. Early on in the time I knew Buzz, he was sort of tough on Kay, maybe a little macho, afraid to show his feelings. But as time went on, he began to verbalize how much he loved her and needed her and appreciated her.

Uncle Buzz was a good man, a fine attorney, a devoted friend. He was generous to a fault to so many people, including me. I miss him dearly.

Maybe someday we'll be able to walk that beautiful Shenandoah Valley together again. I'd like that. ■

Remembering David R. Gold *continued from page 4*

even more enviably, a problem solver. Clients, colleagues, and friends knew David's door was always open.

He was always available to listen—to hear about your most challenging case or your most troubling personal problem. David would listen carefully, giving you his complete and undivided attention. He would ask an occasional question, pause for a moment, and then, focusing like a laser beam, he would identify and express the nub, the lynchpin, the very core of your problem. Having revealed the root of the problem, he would then formulate and present a practical game plan for you to deal with the situation.

His advice was always frank, honest, and straightforward. Now sometimes

you might not have liked all of what he had to say, but you knew David was probably right and his unshakable self-confidence in his own judgment reassured you of the wisdom of his words. Through more than three decades of receiving advice and guidance from David, I learned that he was never, ever, off the mark—not even once.

I know the day will eventually come when I'll pause to think of my dear friend, my brother-in-the-law, David Gold, and I will smile rather than cry, as I fondly recall our many years together and our many shared legal battles and good times, too. And I will thank God for having been blessed with David's friendship. ■

where in
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IS THE WBA
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On May 12, 2015, Eileen Billey (left) and a group of women from Sisters on the Fly left Chicago with Eileen behind the wheel of a 33-foot motorhome, and the rest of the 27-woman group in painted-up vintage camper trailers.

"They kept calling our trip an epic adventure," Eileen said, "because no women's group had ever done it before! The shirt calls us 'All the Way' girls!"

On June 3, the group, including Eileen and her girlfriend from first grade, Kathy Dotie (right), made it to the End of the Trail—the Santa Monica pier.

SANTA MONICA,
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The Westmoreland Bar Association's 54th Annual Memorial Service will be held at the Courthouse in May 2016. Please plan on joining us to honor our colleagues.

To-Wit: Bozos The Clowns

by S. Sponte, Esq.

I don't do a whole lot of litigation any more, certainly not as much as I used to, and while I don't miss the way litigation gobbles up my time in huge bites, I do miss being in our courthouse. It is a grand place, with graceful, swooping arches, hand-inlaid tile, and mahogany wood lustered with a patina wearily reflective of the many years it has spent in service of the law.

Recently, though, I attended a morning hearing in that glorious place; the only meaningful result that came of it was that I was able to have lunch at Sans Merci, only a block away and my favorite downtown eatery. The *plat du jour* was "Dindone ala' CuisineArt." It's a delicacy for which I have always been a sucker, a quality quite essential to the task of consuming it.

As I sat myself down in a booth, I noticed a long-time friend and colleague come in. I waved him

over to join me and the conversation immediately turned to the upcoming judicial election and his readily apparent consternation regarding its possible outcome.

“Sure, it's nice to have judges who are capable, but as long as the choice is left to a populace that so often disfavors shinola, we are from time to time going to be set upon by clowns.”

Two colleagues are currently contending for one seat on the bench. One is experienced, honest, ethical, intelligent, well liked, kind, sensitive, savvy, knowledgeable, and respected,

and the other one isn't; he has appeared in court only once, unsuccessfully representing himself in an attempt to change his name to Attila.

No other judicial candidacy of memory has caused so much collegial consternation, never such a beating of breasts and a pulling out of hair; there hasn't been so much renting of garments since our Bar Association's last formal dinner dance.

Though he is clearly unqualified, I am not so disquieted by the prospect of his election. Sure, it's nice to have judges who are capable, but as long as the choice is left to a populace that so often disfavors shinola, we are from time to time going to be set upon by clowns. It has happened before, it will happen again, and no matter, the

continued on page 18



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Duke George



Daniel Joseph

Bozos The Clowns

continued from page 17

world still spins at (7.29×10^{-5}) radians per SI second.

Take, for instance, the curious election of Shirley Ujest. Though deemed a bozo by her colleagues, she was elected and permanently assigned by a perspicacious president judge to family court where the odds of her making a disastrous decision were never more than fifty/fifty.

Eventually perplexed by always being overturned, she decided the only way to ameliorate her shabby reversal rate was to get elected to the appellate court. To the jubilation of all, she was successful and never heard from again.

Then consider the brief transit and flaming descent of Bernard Phyph. A lawyer of loud mouth, little repute, and way too much alcohol, he got himself elected by currying favor with the gun crowd. In tribute he decided to display his six shooter right next to his gavel at every hearing.

His career was sidetracked abruptly at his very first proceeding when in an alcoholic stupor he mistook his gun for his gavel and sustained a grievous head wound trying to open court. Obligated then to step down, he resumed his private practice where the damage to his frontal lobe was no impediment to the way he had always practiced law.

There are many other examples that clearly reveal how these seemingly catastrophic elections have a way of working out. So trust me on this one, try not to fret, and keep your appeal forms handy. As history demonstrates, you'll only need a few. ■

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LawSpeak

"'Crazy' is a term of art; 'insane' is a term of law. Remember that, and you will save yourself a lot of trouble."

— Hunter S. Thompson

Remembering Barbara Jane Clark

by Daniel Joseph, Esq.

Over the past fifty years, had you asked anyone in the Courthouse if they knew Barbara Clark, you would have received a puzzled look and perhaps the words, "I don't think so." But if you prompted them by saying "Judy," that would have brought a knowing smile.



▲ Judy Clark (left) shares a laugh with Ginny Selesky (right).

I first met Judy when I was a young lawyer and she worked as the secretary for Judge Alexander Sculco, a twenty-year veteran of our bench, who served from 1958 to 1978. After Judge Sculco's retirement Judy became a secretary in the office of the public defender. And in 1980, shortly after Judge Daniel Ackerman took the bench, she became, in his words, his "secretary, confidant, protector, worrier about all things great and small, and the anchor of my chambers." It was a position she admirably filled until January 2010, when Judge Ackerman retired. She greeted everyone who entered the judge's chambers with professionalism and courtesy, and had a rapport with, and respect for, members of the bar, cultivated in her many years as a judicial secretary and her tenure in the public defender's office.

She was a great worrier. Judy worried about everything, as perfectionists are likely to do. Judge Ackerman once urged her to put all her worries aside and told her to worry only about the Indian subcontinent and to report to him immediately if India and Pakistan ever went to war.

Of course, along with that trait, came a great sense of propriety. Though she and I were long-standing friends, on one occasion, when we lunched together at a local restaurant, she objected when I picked up the check, insisting it would not be proper for me to buy her a sandwich since she worked for a judge. I dismissed her concerns and said to her, "You're my friend. Of course I can buy you a sandwich." In the next day or so, I received a check in the mail for the \$2.00 that I spent on the sandwich.

Judy's decades-long commute between Arnold and Greensburg came to an end with her retirement in 2010. Though retirement was not a state which she had looked forward to, as many do, she found solace and happiness through her family and friends. On August 19, 2015, she passed on to join her beloved husband, Patrick, and is survived by her children, Colleen Clark-Sulava, Kathleen Clark Squadrill, Margret Mary Lamanna, and Patrick K. Clark. She will be missed. ■

Get Connected!

Need access to a free wireless Internet connection in Greensburg? WBA members are welcome to stop in the Lawyers Meeting Room on the Fourth Floor at the Courthouse, or the WBA offices, and log on to our free Wi-Fi network.

My Mentor: Louis L. Manderino

by *The Hon. Donetta W. Ambrose*

When I say that Lou Manderino was unique, let me say that I would not attempt to classify him as a “liberal” or “progressive,” or anything else. After all, there are thousands of those people, but there was only one Lou Manderino.

I must confess at the outset a certain bias on my part. Lou gave me the highest compliment I have ever received in my professional life. In my final year of law school, Dean Manderino chose me to accompany and assist him at the onset of his judicial career. Mark Twain said he could live off a good compliment for a month. I have lived off this compliment for a lifetime.

The clerkship was certainly life-changing for me. After law school, I never expected to live my personal and professional lives in Westmoreland

County. Foolishly, I thought a “bigger pond” was in my future. But working with Lou for those two years not only showed me the loyalty he had for his hometown of Monessen, but also the security and comfort Monessen gave to him. He assured me that the same things were waiting for me in my hometown.

Although Lou had been a full-time professor at Duquesne Law School, he had always remained an active member of the Westmoreland Bar. He and his brother, Jim, had a busy practice in Monessen and he served on countless boards and authorities. He had a great passion for making Monessen a better place and he left a lasting impression on the community.

To those of us who went to Duquesne Law School in the ‘60s, Lou was a legend in his own time. No professor was more interesting, more challenging, or more popular. In fact, Professor Manderino became

Dean Manderino by the sheer will of the student body—a student body that demanded his elevation and would not take “No” for an answer.

Why was it that Lou was the people’s choice? The answer is simple: he was truly one of us. Born to Italian immigrants in Monessen in 1929, Lou, like many of his students, was living the American dream, encouraged and supported by parents who sacrificed to educate their children.

He excelled at St. Vincent College and went off to Cambridge to continue his education at Harvard Law School. And while he may have been a “nontraditional” Harvard student in the ‘50s, he was never daunted by the

continued on page 20



▲ *The Hon. Donetta W. Ambrose*



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My Mentor: Louis L. Manderino *continued from page 19*

traditions of the rich, the privileged, and the powerful. He brought the lessons and experiences of his life back to Monessen and to Duquesne Law School.

Lou taught Torts and Evidence. He taught us well. He was a man in motion the entire time he taught a class. I do not believe he ever had a course syllabus or a lesson plan. It was all spontaneous or, at least, seemed so. He spent weeks on a single case, studying it in all its richness and depth. Neither he nor we were troubled by that.

Lou cared about his students. He was accessible and generous when solicited for advice. He talked about representing “real people” and pro bono and public interest law. Students were attracted to his passion and he kindled in many a heart an inextinguishable fire and love of the law.

When Lou was appointed to the Commonwealth Court in 1970, then elected, one year later, to the Pennsylvania Supreme Court, he embarked on an all-too-brief judicial career, from which he is remembered as a great justice.

I was so fortunate to be a small part of that distinguished career. He taught me to study a case hard and to look for the internal logic of the law: the same lessons I had learned as his student were lessons I was applying as his clerk.

But with Lou, it was more than the work. As I write, the memories wash over me, some good, some not so good. The latter include those smelly Lark cigarettes, the worst driver I have ever known, and the late-night office sessions—great for a night owl like Lou—not so great for a morning person like me!



▲ *Pennsylvania Supreme Court Justice Louis L. Manderino, April 1973*

The former include the day I was admitted to the Westmoreland Bar in December of 1970. Lou made a huge production of moving my admission before President Judge David H. Weiss. That was also the day that Judge Weiss decided that Ray Ambrose, who I did not know at that time, and I should get married. I guess that was a pretty important day for me!

Working for Lou was all-encompassing. He had that way of drawing everyone into every aspect of his life—whether it was a state-wide campaign or a late night session at Johnson’s in Monessen, drinking coffee and eating burgers. Lou embraced life with as much gusto as his work and it was impossible not to get caught up in his amazing ride.

I remember vividly the month before he died, when the Louis L. Manderino Library was dedicated at California State University on October 12, 1979. It was a very proud day for him and those who loved him. It was one of the few times I saw him humbled by such an honor.

None of us celebrating with him that day could imagine that less than a month later, one week short of his fiftieth birthday, he would be taken from us so suddenly, so tragically.

I learned a lot from Lou because he never stopped teaching. And despite all his classroom skills and charisma, he taught best by example. He was a man whose trademark was his honesty, his brilliance, his integrity, and his determination to do justice.

He was a working-class guy who reached for the stars and grabbed the brass ring. But with all his success, he never forgot his humble roots and where he came from. His focus as a judge was always on the underdog. He taught me that working as an attorney was the best thing that anyone could do, but that it was only good if you worked for justice.

I, for one, will always feel the tug of his influence, the tug that reminds me of the unique individual who was Attorney, Professor, Dean, and Justice Louis L. Manderino. ■

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Savor the Dawg Day Afternoons

by Terence O'Halloran, Esq.

If you were to walk out the front door of Court House Square and follow the sidewalk to the corner, you would be standing directly across the street from the 1896 Romanesque Revival structure known as the Bank and Trust Building. It's a striking building, part of the Greensburg Historical District and, for our purposes, it contains an establishment unique to Greensburg. Taking the narrow steps down from the Main Street side and opening the door at the bottom of the stairs brings you into a different world.



▲ Terry O'Halloran

Yellow and peach colors blare at you from all sides, you are almost slapped into realizing you are in some sort of eatery.

With only a few tables and a high countertop surrounding an open grilling area, you notice the walls are covered in blackboards—one announcing the daily specials, another listing a novel menu of breakfast and lunch meals, and yet another listing just about anything one can do to a hot dog that could be considered legal AND edible in this Commonwealth.

You have just entered the world of the **Sun Dawg Café** where Ray and Rachel Flowers have been creating their brand of culinary niche for several years now. Their mutual love of food and working in the food industry have produced for them, so far, a marriage, a child, and, of course, the Sun Dawg Café.

Between them, their careers encompass stints at restaurants from Asiago, J. Cork's, Fontana's Headkeeper, and others. And in answering why they chose this particular niche of breakfasts and

lunches with catering on the side as their business model, Ray replied, "There are twenty or so restaurants in and around Greensburg. Most of them are good. We thought we had to be different and better."

Indeed.

Open for business around 8 a.m. every day (not Sundays), and serving food through late afternoon, the offerings are noticeably different from other fare in the area.

For example, if you wanted something in the breakfast line, you could choose from breakfast tacos, bacon pecan waffles, rum raisin French toast, or Huevos Rancheros Frittatas (omelets with chorizo, beans, cheese, and pico de gallo.) And, of course, you could order them any time throughout the day.

For lunch, try to choose between a Mango Dawg (mango salsa and caramelized onions), a Tijuana Dawg (pico de gallo, jalapeño, crema, pineapple, avocado), or a Cuban Dawg (pulled pork with honey mustard), or any number of fish tacos that appear on any given day.

If you sense a Caribbean flavor behind these dishes, you have a knack for cutting to the chase. At least once a year, sometimes more often, Ray and Rachel flee to the Caribbean to relax, recharge, and renew their love of the region that serves as their spiritual and culinary inspiration. St. John's is their Getaway Island Of Choice, but that's as specific as I'll take you to their

Fountain of Knowledge. Just be happy they like to do this and let them pass on their creations to us in their own way.

Prices are reasonable, all specials being well under \$10, and convenience to the Courthouse is a given.

If I had any disappointment with my experience, I left the place thinking the surroundings weren't what I wanted them to be. The food was a lot better than the high-tabled counter where I ate it, I thought. And it wasn't until I came back to write this piece that I realized the problem wasn't with the surroundings. It was with me.

It's a proven fact that food tastes best when eaten with others. Eating is, should be, has always been, a social experience. At the counter where I sat, I could talk to the other patrons, or, if not them, the cooks, the owners, or frankly, everybody else in the place. I just didn't. It was just like any other Caribbean lunch counter had I chosen to make it so. Doh!

And besides, they try to make it easy to take advantage of their food. By their own description on their menu, they offer "Eat-In-Take-Out-Call-Ahead-Curb-Service-Catering." That pretty much covers anything that comes to my mind outside of IV infusions.

So I would suggest, if you're in the mood for something different and, frankly, good, Sun Dawg Café should meet your mood. ■



ATTENTION ATTORNEYS, PARALEGALS AND LEGAL SECRETARIES

Looking to hire or be hired? The Westmoreland Bar Association operates an informal placement service for paralegals, legal secretaries and attorneys by collecting résumés and forwarding them to potential employers at no cost. Contact Bar Headquarters at (724) 834-6730, or 129 N. Pennsylvania Ave., Greensburg, PA 15601, for more information.

foundation focus

Law School, Mock Trial Scholarships Awarded



The Westmoreland Bar Foundation awarded three law school scholarships and two Mock Trial scholarships to Westmoreland County residents for the 2015-16 school year. An awards ceremony was held on Monday, August 17, in The Hon. Christopher Feliciani's courtroom at the Westmoreland County Courthouse.

LAW SCHOOL SCHOLARSHIPS

Amanda Kurtz from North Huntingdon was awarded \$2,100 from the **Wayne Donahue Memorial Scholarship**. The Donahue Scholarship is named for Wayne R. Donahue, a sole practitioner from New Kensington and a lifelong resident of western Pennsylvania. Amanda is a second-year law school student at Duquesne University School of Law and a graduate of the University of Pittsburgh at Greensburg with a B.S. in Psychology.

Danielle Santoro from Murrysville was awarded \$2,300 from the **Donald Laird Hankey Memorial Scholarship**. Donald Laird Hankey was a sole

practitioner in New Kensington and a member of the Westmoreland Bar Association for more than 65 years. Danielle is a graduate of Penn State University with a B.S. in Finance and a second-year law school student at the University of Pittsburgh School of Law.

Ashley Majorsky from Latrobe was awarded a blended scholarship in the amount of \$2,300 from the Donahue and Hankey Scholarships as well as **The Honorable David H. Weiss Memorial Scholarship**. The Judge Weiss Scholarship is named for the former President Judge of the Court of Common Pleas of Westmoreland County and is awarded to a University of Pittsburgh law school student. Ashley is a first-year law school student

at the University of Pittsburgh School of Law and a graduate of Carlow University with a B.S. in Forensic Accounting.

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 two \$1,000 college scholarships could be awarded each year to deserving mock trial participants.

This year's Mock Trial Scholarship winners are Bianca Li and Sage Guynn.

Bianca Li is a 2015 graduate of Franklin Regional High School, and a member of the winning county Mock Trial team. Bianca is attending Yale University to pursue a degree in Molecular, Cellular, and Developmental Biology. She is the daughter of Ming Li and Bing Gao and resides in Murrysville.

Sage Guynn is 2015 graduate of Southmoreland High School, and is attending Notre Dame University to study Business and Finance. He is the son of Joseph Guynn and Jennifer Tacconi and resides in Scottsdale. ■



▲ From left to right: Law School scholarship winners Ashley Majorsky and Danielle Santoro, President Judge Richard E. McCormick, Jr., Law School scholarship winner Amanda Kurtz, and WBF Chair Bruce Tobin.

▲ From left to right: WBF Vice Chair Timothy J. Geary, Mock Trial scholarship winner Bianca Li, President Judge Richard E. McCormick, Jr., and Mock Trial scholarship winner Sage Guynn.

Get involved with the Westmoreland Bar Foundation. Call Diane at 724-834-6730 to volunteer.



▲ A Duquesne Law Alumni Association reception took place on September 15 at J. Cork's in Greensburg. In the photo, left to right, are Allegheny County Common Pleas Judge Michael E. McCarthy (Law Alumni Past President), WBA member Gino Peluso (also a Law Alumni Past President) and Duquesne Law School Dean Kenneth G. Gormley. Photo by Jeanine DeBor, Duquesne Law Alumni director.

New Member Sketches

JOHN S. KAMARADOS has been admitted as a participating member of the WBA. He earned a degree in Political Science and his J.D. from West Virginia University. John is a sole practitioner in New Kensington, and lives in Lower Burrell with his wife, Cheryl, and children, John and Anastasia.

ERIN L. O'NEILL has joined the WBA as a participating member. Erin earned her B.S. in Health Sciences and a Master of Physician Assistant Studies degree, as well as her J.D., from Duquesne University. She is the Senior Managing Attorney with MEDVAL, LLC, in Pittsburgh, and resides in Greensburg. ■

Actions of the Board

JULY 16, 2015

- Voted to charge the Investment Committee with determining realistic allocation of operating reserves vs. endowment funds for the operation of the WBA, especially in light of the possible loss or decreased income from the legal journal and to seek accountant's affirmation on this recommendation.
- Voted to ask accountant to change the language in Schedule O of the 990 that indicates that the 990 "is provided to each board member for review and final

approval prior to filing" to simply state that the 990 is provided to each board member for review before filing and with that change in Schedule O, the board accepts Accountant Shanta's 2014 financial review and completion of 990.

- Voted to hire an individual who can enter the data of the WBA finances beginning in January 1, 2015, so that the board can have the current 2015 report of the WBA finances via QuickBooks.
- Voted to waive CLE costs for the November 17, 2015, IRVTalks CLE.

AUGUST 20, 2015

- Voted to eliminate the paper copies and the paid subscriptions of the local rules effective immediately, to notify the subscribers of this action, and to also approach the courts to change the local rule so that the WBA is not the official publisher of the local rules.
- Voted to help the Chamber of Commerce promote the candidates forum on October 1 at WCCC subject to a review of the marketing piece by board member Dan Hewitt. *Note: This support of the Chamber project was dropped when the judicial candidates did not participate.*
- Voted to hold the quarterly meeting in conjunction with the IRVTalks CLE on November 17 at the Greensburg Garden & Civic Center, with reception to follow in the penthouse.
- Voted to hire Blissman and Company to convert the WBA finances to QuickBooks for a fee of \$1600 and to begin the work as soon as possible. ■

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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 for more information about activities and CLE courses, or to **register online**.*

NOVEMBER

- 6** 1st Ever Young Lawyers Bar Crawl, Meet at The Rialto Back Bar at 5 p.m.
- 9** Municipal Law Committee, Noon
- 11** Courthouse closed in observance of Veterans Day
- 12** Real Estate Committee, Noon
- 17** Family Law Committee, Noon
[CLE] IRV Talks at the WBA Fall Quarterly Meeting, 4:30 to 5:30 p.m., Greensburg Garden & Civic Center
- 18** Membership Committee, Noon
Elder Law & Orphans' Court Committees, Noon


- 20** [CLE] Introduction to Westmoreland County Adult Drug Court (DVD Replay of 8/27/15), 1 substantive credit, Noon to 1:15 p.m.

- 26** Courthouse closed in observance of Thanksgiving
- 27** Courthouse closed in observance of Thanksgiving

DECEMBER

- 5** Holiday Dinner Dance and Silent Auction, Oakmont Country Club
- 15** Family Law Committee, Noon
- 16** Membership Committee, Noon
- 17** After-Work Holiday Party, 4 p.m., The Rialto Back Bar
- 25** Courthouse closed in observance of Christmas

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Introduction to Westmoreland County Adult Drug Court

– DVD Replay of 8/27/15 –

1 Substantive Credit Available



An accredited provider for the PA Board of Continuing Legal Education

This one hour seminar sets forth the qualifying criteria for admission into the Westmoreland County Adult Drug Court program.

Topics of discussion:

- Explanation of eligibility
- How the program works
- Sanctions for noncompliance
- Incentives for potential candidates
- Explanation of procedures that accompany admission

Speakers:

The Honorable Christopher A. Feliciani

The Honorable Meagan Bilik-DeFazio

Peter Caravello, Esq. - District Attorney's Office

Eric Leydig - Adult Probation and Parole



One Substantive 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.

November 20, 2015

DVD Replay — Introduction to Westmoreland County Adult Drug Court

Name: _____

Attorney I.D. # _____

Address: _____

Email: _____

Phone: _____

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).

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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 19, 2015.**

**Friday,
November 20, 2015
12:00 pm - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm November 19, 2015)

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.

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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 9, 2015
9:00 am - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA
office by 12 pm December 8, 2015)

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.

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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.

The program also serves as a great refresher for any attorney admitted to practice in Pennsylvania.

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.
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Bridge the Gap — December 9, 2015

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Attorney I.D. # _____

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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 December 8, 2015.**

Santa Claus is coming to town!

Dinner with Santa Thursday, December 10

5:30 to 7 p.m. • WBA Headquarters

All attorneys—and staff—are invited! Bring your children, grandchildren, nieces, and nephews for some last-minute one-on-one time with Santa before the big day. Child-friendly foods and activities are planned.

After-Work Holiday Happy Hour Thursday, December 17

4 to 6 p.m. • The Rialto Back Bar

Join friends and colleagues in celebrating the season. All attorneys are invited! Hors d'oeuvres and refreshments will be served with holiday cheer.

Sponsored by the Young Lawyers of the WBA—all attorneys are invited! Please **RSVP** to the WBA for either or both parties at **724.834.6730** or **westbar.org@westbar.org** by **Thursday, December 3**, so we know how many to plan for.





Thursday
December 17, 2015
WBA Headquarters
9 am - 4:15 pm

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12:00 pm December 16, 2015)
 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)

Lunch will be provided.

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Session 1 — 2 Substantive Credits

9:00 am – 11:00 am (Video from 4/15/15)

2015 Personal Injury Update

- Significant Case Law Development
- Review and Update of Subrogation Issues & Strategies
- Analyzing & Understanding Auto Insurance Coverages
- How and When to Use Non-Physician Experts in a Personal Injury Case

Speaker:

Michael D. Ferguson, Esquire
 Ferguson Law Associates

Session 2 — 1.5 Substantive Credits & *1 Ethics Credit

11:15 am – 1:45 pm (Video from 6/11/15)

Legal Concepts: Seinfeld & Breaking Bad

Fans of the famous 90's sitcom, *Seinfeld*, and the recent drama, *Breaking Bad*, may not have realized it, but they were watching shows rife with complex legal issues. Not only were there numerous lawsuits and potential lawsuits within the storyline of the shows, but one episode even sparked a real-world suit against the network.

This unique seminar will use the milieu of these two TV shows to discuss a wide range of legal concepts.

Panelists:

Honorable Richard E. McCormick, Jr., Timothy C. Andrews, Ned J. Nakles, Jr.

*** One hour of ethics credit is integrated into this program, if you attend less than the full time of this program, you will receive only substantive credits for the time of your attendance.**

Session 3 — 1 Substantive Credit

2:00 pm – 3:00 pm (Video from 11/21/14)

Secure-A-Day

What every attorney needs to know about securing personal and professional data.

Speakers:

Stacey Ivoll - INtegrity First Corp.
Stephen P. Moschetta, Esq. - The Moschetta Law Firm P.C.

Session 4 (Video from 6/12/15)

3:15 pm – 4:15 pm — **1 Ethics Credit**

Malpractice Avoidance with James R. Schadel, Esq.

A founding partner in the firm of Weinheimer, Schadel & Haber, P.C. Jim has focused his practice primarily in the areas of professional liability defense, particularly in the area of legal malpractice defense, but also defending malpractice claims against accountants, real estate agents, insurance agents, and other professionals.

4.5 SUBSTANTIVE and 2 ETHICS Credits are available toward your annual CLE requirements.

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December 17, 2015 Video Compliance CLE

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