

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 XXVIII, NUMBER 1
MARCH 2016

dicta

Trial Court Rules Grandparents Visitation Act Unconstitutional

by Pamela Ferguson, Esq.

"My son is two and a half. His grandfather (my ex's father) has sued me for his grandparent rights. He is determined to turn my son against me because I am a lesbian. It isn't fair that parents don't have a say as to who has access to their children. My ex owes me over \$5,000 in child support. He keeps going to jail because he is a loser. His family is wealthy. I'm a 20 year old single mother. Sadly, I know he will use his lawyer to attack me and continue to take me to court until the end result satisfies him."

"My daughter, when she turned 18, pursued a relationship with a 25 year old physically abusive man... She got a temporary PFA, but, she dropped it. She always goes back. She is now pregnant and will be giving birth in the next two months. We are fearful for our grandchild's safety and expect that this kind of action will just continue to escalate... we would like to get custody of the child until she gets her life together."

"I have a bipolar mother who was a big part of my kids' lives until she stopped taking her meds... I haven't spoken to my mother since Christmas... she quit her job... is bouncing from house to house... homeless shelters... she was even in a mental facility for a while... and now I get a phone call that she's going to family court to sue me for grandparents' rights..."

These pleas for help were found on a Lancaster County law firm's blog explaining the "new" 2011 grandparent visitation provisions in Pennsylvania's custody statute.¹ The stories reflect the fear the statute elicits for some and the hope it elicits for others: a dichotomy that was either not considered or was intentionally ignored by our legislature, whose sole intent in affording grandparents standing was to "protect" the health and emotional welfare of children in non-intact families.

Citing the rising number of divorces and children born out of wedlock, and pressured by a vocal aging constituency that has seen their input in their grandchildren's lives diminished by geographical distance and/or animosity with their children, legislatures from all 50 states have enacted grandparent visitation laws. Despite a morally commendable intent (fostering relationships between grandparents and grandchildren), grandparent visitation statutes discriminatorily

¹ There are three circumstances under which grandparents have standing pursuant to 23 Pa.C.S. § 5325. Section (1) affords grandparents standing when a parent is deceased; (2) affords grandparents standing to sue for partial custody or visitation for a grandchild whose parents are separated or involved in divorce proceedings; and (3) affords grandparents standing after their grandchild has been removed from their care by the parents, who placed the child with them twelve months or more prior to removing him/her.

assume that children living in non-intact families need contact with their grandparents to protect them from harm, while children living in intact families do not.

Classifying children "at risk of harm" solely because of their family status, without requiring a finding of parental unfitness, was recently determined by Westmoreland County Court of Common Pleas Judge Harry F. Smail, Jr., to be unconstitutional and a violation of parents' Fourteenth Amendment Rights.²

In *Ponko v. Ponko*³, Judge Smail found that the sole basis for affording grandparents standing to pursue visitation or partial custody of their grandchildren pursuant to 23 Pa.C.S. §5325(2) is the Commonwealth's *parens patriae* power to protect children of separation and divorce. Applying strict scrutiny, Judge Smail determined that the breakdown of the family unit

continued on page 8

² Judge Smail held only Section (2), which affords grandparents automatic standing to sue for partial custody or visitation for a grandchild whose parents are separated or involved in divorce proceedings unconstitutional.

³ Westmoreland County Case No. 1750 of 2014-D.



Pamela Ferguson

President's Message

Let Freedom Ring

by Maria E. Soohy, Esq.

In a tribute in 2014 to our nation's veterans, Vice President Joe Biden said, "You are the veterans of America, the most trusted among us, and the most tested of all Americans. Collectively, you represent generations of soldiers, sailors, airmen, Marines and coastguardsmen who have served and sacrificed for all of us. You are not

only the heart and soul, but you are the very spine of this nation."

This message is dedicated to the veterans among us. Many of our bar members have served in the military. They are of a different

breed, and deserve the utmost respect. Yet one may not even know they served, as it doesn't come up that often. You have to ask. Their stories are varied, and their humility palpable.

In American author John Steinbeck's novel, "East of Eden," a father describes to his son what it means to be a soldier: "A soldier is the most holy of all humans because he is the most tested."

This past week, a new client came to my office with his wife. He was 93 years old and a World War II veteran. I know there are not many WWII veterans among us, but I was honored and humbled to have met one, and he was sharp as a tack. My dad was a WWII veteran, and he died at 80. I miss him every day for many reasons.

I have told the story of my dad before—an Army Air Corps veteran, a nose gunner who flew 32 missions, including Normandy, prior to his B-24 bomber flying into a side of a mountain near Seething, England. He was one of a handful of survivors. He was 19 years old.

It was really a miracle that he survived, and I always find it ironic that he was found by an English shepherd. A good shepherd's day consists of taking care of his sheep, making sure they do not stray, caring for those that are hurt, and feeding and watering them, prioritizing tasks because it is hard work. On that day, the good shepherd saved a young soldier. That wasn't in the instruction manual.

Remember that we have a volunteer military. Since September 11, 2001, 3.5 million men and women have volunteered to serve our nation on the front lines in Iraq and Afghanistan.

I'm proud to be an American. It may sound cliché but I still get goosebumps when I hear the "Star-Spangled Banner" and "God Bless America." Despite our country's problems, we are truly blessed.

With the turmoil in the world, we do not know when our military will again be tested. We do not know whether our great country will be safe for our own children and our grandchildren. ISIS promises to destroy our country as we know it. The threat of ISIS and radical militants is real, and I am sure that we will be dealing with this threat for many years.

That is another reason we must all live every day to its fullest. Keep in mind that it is in giving that we receive. Find a veteran among us and say thank you. Remember that he or she stands for freedom. ■




WBA Partners with FCBA, Penn State Fayette for Veterans CLE

The Westmoreland Bar Association is partnering with the Fayette County Bar Association (FCBA) and Penn State Fayette for a special CLE entitled "Serving Those Who Served: Veterans Benefits, Programs, and Legal Issues" on Friday, April 29, 2016, from 9 a.m. to 12:15 p.m. at Penn State Fayette. The program will include the airing of the documentary "Journey to Normal: Women of War Come Home" and a follow-up commentary by the documentary's producer and managing director, Julie Hera DeStefano. Other panelists will discuss veteran benefits and local and state programs that work with multigenerational veterans. The seminar is open to lawyers, veterans, social service workers, and community members. Look for additional information at www.westbar.org or as an insert in this issue of *the sidebar*. ■



The Bench/Bar at 30

by *The Hon. Daniel J. Ackerman*

The annual carnival of learning, goodwill, and athletic prowess known as the Bench/Bar Conference will be unveiled for the thirtieth time, June 8-10, at Nemaocolin Woodlands. This plush—and some may even say, extravagant—resort, which once was the summer home and hunting preserve of Pittsburgh industrialist Willard F. Rockwell, seems appropriate for a celebration of three successful decades of professional intermingling.

To those outside the profession, such a gathering may appear to be no more than a summertime party. However, in addition to the continuing education programs and the judges' roundtable, the Bench/Bar affords the opportunity to meet and to get to know others who share the profession

with us—and that may well be its principal benefit.

At law, the coin of the realm is trust. Dealing with strangers, we may hope that they will prove reliable, but that hope doesn't emerge as trust until we know one another. That said, the shared experience from these events which seems the most lasting is laughter. With that in mind, let's look back at where we've been and what we've done.

In descending order of frequency, we have followed the conference to: Lakeview Resort and Conference Center in Morgantown, W.Va., six times (1987, '88, '90, '95, '96¹, and 2003); Nemaocolin Woodlands in

Farmington, Pa., five times (1989, '91, '92, '97, and '98); The Wisp Resort in McHenry, Md., five times (1999, 2000, '01, '02, and '07); Seven Springs Resort in Champion, Pa., three times (2005, '09, and '10); Hidden Valley Resort in Hidden Valley, Pa., twice (1993 and '94); Mountaineer Casino & Conference Center in New Cumberland, W.Va., twice (2006 and '15); Oglebay Resort & Conference Center in Wheeling, W.Va., twice (2008 and '13); Rocky Gap Resort in Cumberland, Md., once (2004); Waterfront Place Hotel in Morgantown, W.Va., once (2011); Omni Bedford Springs Resort in Bedford, Pa., once (2012); and Stonewall Resort in Roanoke, W.Va., once (2014).

continued on page 4



▲ *The Hon. Daniel J. Ackerman*

¹ In one of *the sidebar's* few publishing errors, it was announced that the 1996 Bench/Bar would be held at the Rio Hilton in Rio de Janeiro. Seven bar members checked into the Rio Hilton, and when they returned to their families and practices six weeks later, they declared it to be the best conference yet, even in the absence of CLEs (see, *the sidebar*, Vol.III, No. 2, May/June 1996, p.1).



▲ *John Pallone, David Regoli, Denis Zuzik, Bruce Mattock, and Jim Nardelli*



▲ *5K Participants*



▲ *Bill McCabe and Tim Geary*

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, *Long-Distance Operator*
 Pamela Ferguson, Esq., *Associate Editor*
 Susan C. Zellner, *Associate Editor*
 Diane Krivoniak, *Managing Editor*

The Bench/Bar at 30 *continued from page 3*

Few endeavors have gotten off the ground faster than the first Bench/Bar at Lakeview in 1987. It is unlikely that Ken Burkley, the WBA president, or Denis Zuzik, the first committee chair, could have anticipated an attendance of 190, or that the conference would run for 30 years. Usually held in a rural setting, the combination of outdoor activity, music, a little classroom time, and good food proved to be a hit.

Golf was always a big draw, for a surprising number of lawyers and judges harbor the belief that they actually know how to play the game. And occasionally there were some outstanding golfers: Bruce Mattock, for example, who won the team event at Hidden Valley in 1993,



▲ *Tennis pros had their day on court.*

along with three other guys², who took turns carrying his clubs.

The same Bench/Bar was the first to feature a 5K race/walk. *The sidebar* reported that the men's winner was John Greiner, with Diane Krivoniak coming in first among the women.

² John Pallone, David Regoli, and Jim Nardelli

Amy Keim came in first in the walk, and in two specialty classes, Reg Belden won the "masters race," while Larry Kerr, in the "Clydesdale division," led a field of 18. Because many of the runners in the two special categories missed lunch, some argued that the starting time for future 5Ks should be moved to 5:00 a.m.

Tennis had its debut at Nemaocolin in 1991, when Gino Peluso both organized and won the tournament. A subsequent grand jury found no evidence of impropriety. However, the big moment in Bench/Bar tennis occurred at Lakeview in 1995, when Aaron Kress won the singles championship (5-7, 7-6 (6), 7-6 (5), 3-6 and 16-14) over 9-year-old Rafael Nadal.

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



▲ *Cycling, croquet, and hiking have been popular Bench/Bar pastimes.*

And let us not forget the croquet tournament and how nice everyone looked in their white shorts and shirts. Other open air events included trapshooting and cycling at Seven Springs in 2010, though the mixing of the two events led to some unfortunate consequences.

The outdoor activity, however, which produced our most prominent athlete was hiking. Honing his skills on various Bench/Bar nature walks, Jim Antoniono went on to hike the entire Appalachian Trail in a single weekend and hasn't been heard from since.

Music—what would the Bench/Bar have been without music? Younger members who have only been exposed to the beat of Judge Feliciani and Scotty's Blues Peddler's Band, with James Boggs jamming on the sax, will look upon earlier offerings as rather quaint. In 1991, Judges Donetta Ambrose and Gary Caruso took to the stage at Nemaocolin as a duet, performing, "Anything You Can Do, I Can Do Better;" followed by a quartet of common pleas judges³ with a barely recognizable rendering of "Jail House Rock." All of which led up to the jaw dropping finale of Jim Kelley's "Wild Thing." Those who couldn't get enough of this type of entertainment would have to wait three years for the Karaoke contest at Hidden Valley, won by Judge Richard E. McCormick, Jr., doing "Double Shot of My Baby's Love," to see anything like it.

There was one lovely voice, however, which stood out from the crowd. It belonged to Leslie Uncapher, and was showcased in the BarFlies productions, which for a number of years held the center stage at the Bench/Bar. These take-offs of Broadway shows and songs, revamped into a law-related context, were brilliantly written by David Millstein, who was often compared to Neil Simon and Stephen Sondheim (Full disclosure: He's the editor here. Any other questions?). And John Noble, the BarFlies director, called upon his extensive stage and screen credits (two), to instill in his troupe a love of "schm-acting." His directing skills were such that even those with the smallest parts, who were playing the most unsympathetic characters (parts usually assigned to judges) thought of themselves as

continued on page 18

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.

³ Gilfert Mihalich, Bernard Scherer, Daniel Ackerman, and Richard McCormick, Jr.

NOVEMBER 2015 TRIAL TERM

Of eight cases listed for the November 2015 Civil Jury Trial Term, two settled and six were continued. There were no jury trials.

JANUARY 2016 TRIAL TERM

Of sixteen cases listed for the January 2016 Civil Jury Trial Term, five settled, nine were continued and two resulted in a jury trial.

LEONA SHANNON AND RONALD SHANNON, HER HUSBAND

V.

JOHN A. MACPHAIL, AND GREENGATE ORTHOPAEDIC GROUP, P.C.

NO. 4184 OF 2012

*Cause of Action: Negligence—
Medical Malpractice*

On June 15, 2007, the Doctor-Defendant performed a total left knee replacement on the Plaintiff-Wife. During the surgery, Defendant fractured Plaintiff's femur, but was unaware that he'd done so until a post-operative X-ray taken on June 15, 2007, and reviewed by a medical expert sometime later, revealed it. Plaintiff's medical expert witness, Raymond M. Vance, M.D., an

JURY TRIAL VERDICTS



BY BETH ORBISON, ESQ.,
EMILY SHAFFER, ESQ.,
AND LEEANN PRUSS, ESQ.

orthopedic surgeon, opined that the fracture occurred because the Doctor removed too much of the anterior distal femur during surgery, thereby deviating from the standard of care.

Plaintiff had been employed at the time of the surgery and planned to return to work following three to four months of physical therapy and rehabilitation. As a result of the fracture and subsequent corrective surgeries that were required, she never returned to gainful employment. Her vocational expert, Joseph F. Maola, Ph.D., estimated that she had lost wages of \$126,650. In addition, she maintained that her ability to contribute to the household chores

and cooking was significantly impaired as a result of the surgery. Plaintiff-Husband claimed loss of consortium.

Although Defendant admitted that he caused the fracture and was unaware of it until a later date, he denied that he deviated from the standard of care required under the circumstances.

Defendant's expert, Jon B. Tucker, M.D., an orthopedic surgeon, testified that a femoral notch and a peri-prosthetic fracture are recognized risks of total knee replacement surgery, and consequently, the Doctor did not violate the standard of care.

Trial Dates: January 4–6, 2016

Plaintiffs' Counsel: Christopher Lepore, Cooper & Lepore, Carnegie
Defendants' Counsel: Paul K. Vey, Pietragallo Gordon Alfano Bosick & Raspanti, LLP, Pgh.

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

Result: Verdict in favor of Defendant.

DAVID A. LUTHER AND LYNDA A. LUTHER

V.

THE ESTATE OF FLORENCE E. BAIRD; SHEILA E. SOWERS; RANDY K. BAIRD; PAMELA G. LICHTENFELS; AND CYNTHIA L. BAIRD

NO. 4431 OF 2014

Cause of Action: Negligence

On January 10, 2013, Plaintiff David A. Luther was delivering Meals on Wheels to the residence of Florence E. Baird. After exiting his vehicle, he slipped and fell on a patch of ice in the driveway of the residence. Plaintiff alleged that the ice was covered by a dusting of snow. Plaintiff landed on his left side and hit his head on the bumper of his vehicle. According to Plaintiff, he reported the incident to Florence Baird at the time of the delivery and to his employer upon returning to the office. After

continued on page 10



"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

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

From The Bench

Eighteen Months In Review

by The Hon. Harry F. Smail, Jr.

Editor's note: The Hon. Harry F. Smail, Jr., was appointed to the Westmoreland County bench by then-Governor Tom Corbett in June 2014. He was elected to a full term on the bench last November. We asked him to share his thoughts on his first eighteen months as a judge; he requested that they be published without any editing.

“If you think you are beaten, you are; If you think you dare not, you don't. If you'd like to win, but think you can't; It's almost a cinch you won't. If you think you'll lose you're lost, for out in the world we find success begins with a fellow's will; It's all in the state of mind. If you think you're out classed, you are. You've got to think high to rise. You've got to be sure of yourself before you can ever win a prize. Life's battles don't always go to the stronger or faster man; but sooner or later the man who wins is the one who thinks he can.” Poem: “The man who thinks he can” by Walter D. Wintle.

I've derived strength from those words for eight long years. In doing so, I was undeterred by infinite obstacles, outright attacks and perpetual hours devoted to my life's quest of ascending to the Bench. In sharpening my focus on that goal, I was introduced to life experiences from a myriad of people and events that have strengthened my character and defined the jurist I have become. Central to my approach is respect for the law, along with empathy for those various persons, offices, and litigants involved. I attempt to treat others, not necessarily as I'd want to be treated, but as I would expect to be treated, based upon what's been placed before the Court.

July 21, 2014, began my judicial life. Given my transformation from private litigator and business owner to

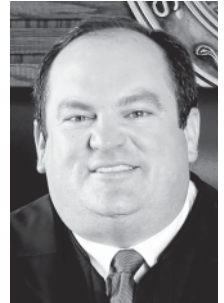
public official, I've attempted to balance my background with my duties. First and foremost, I am entrusted with implementing and enforcing all laws in compliance with the dictates of the U.S. Constitution and the Constitution of the Commonwealth of Pennsylvania. I can think of no better place than my assignment to the Family Court Section of the 10th District Court of Common Pleas to achieve those goals. This placement, proverbially, fit like a glove; wherein, I had no apprehension or anxiety—due to by vast experience as both family litigator and litigant.

My journey in this initial year and a half truly was the best of times and the worst of times. The mere act of attaining two judicial commissions, the first in surviving the rigorous vetting process and campaigning through the Harrisburg establishment, was harrowing to say the least. Thereafter, to the intense county-wide campaign of strategy, blood, sweat, stress and insomnia whilst performing my full judicial assignment, including divorce, custody, equitable distribution,

dependency, parental rights termination, adoptions, permanent and temporary Protection from Abuses, required concentrated resolve and razor-sharp intensity. The past year has, in sum, concluded a long battle against most odds, contrary efforts and stalwart inactions. Nevertheless, in my reckoning, the past should only pertain to the future in gleaned those lessons for more positive outcomes.

In my most earnest effort, I have tried to be the jurist that I wanted from counsel table each time I walked into Court as a litigator and litigant. Those traits encompassed calm in demeanor, respectful for the legal profession, time constraints upon counsel, procedures in accordance with Rules, statutory and precedential law, enforced decorum, with a common sense approach to resolution or ruling articulated in plain

continued on page 10



▲
The Hon. Harry F. Smail, Jr.

Lawyers' Exchange

(Free to all members of the WBA)

REFERRALS ACCEPTED Contracts and business law. Also will do research and writing for attorneys. Contact Terrilyn Cheatham at the Westmoreland County Pro Bono Office —724-837-5539.

RESEARCH OR CONTRACT RATE WORK performed for employment law and contract law. If you need research performed or want me to work on one of these cases at a contract rate, please call Sharon Wigle at 724-423-2246 or e-mail jjwigle@wpa.net.

ATTENTION SOLO PRACTITIONERS! Need assistance in your practice but lack an associate attorney to assign work? Contact the WBA at 724-834-6730 to learn how to get help with your cumbersome pleadings, discovery, or research projects.

POSITION AVAILABLE for full-time secretary at Westmoreland County law firm. Send résumé to Diane Krivoniak at the WBA, dk.wba@westbar.org.

dicta Trial Court Rules Grandparents Visitation Act Unconstitutional *continued from page 1*

is not a compelling reason requiring state intervention and that allowing grandparents to seek court intervention is not the most narrowly tailored means to protect children in non-intact families.

Citing Chief Justice Cappy's refusal to find the classification of children in intact families versus children in non-intact families to be necessary to "effectuate the government's compelling interest in ensuring the well-being of children,"⁴ and the presumption that fit parents, regardless of their family status, act in the best interests of their children,⁵ Judge Smail found no constitutional basis justifying the implicit presumption of unfitness as between separated and non-separated parents: "(S)o long as a parent adequately cares for his or her children (i.e., is fit), there will normally be no reason for the State to inject itself into the private realm of the family to further question the ability of that parent to make the best decisions concerning the rearing of that parent's children."⁶

Grandparent visitation is a relatively new concept. At common law, parents had only a moral obligation to foster a relationship between their children and their parents. But, as seniors became more politically active in lobbying groups such as the AARP and Advocates for Grandparent-Grandchild Connection—groups that used the changing demographics and the unraveling of the nuclear family to fuel America's deep-rooted fear of the family's breakdown—politicians found themselves "confronting political suicide if they didn't support grandparent visitation legislation."⁷

In 1966, New York became the first state to enact such legislation; since then all fifty states have passed third-party visitation statutes. Many states have seen constitutional challenges to their statutes. A challenge to Washington's statute went all the way to the United States Supreme Court.

In *Troxel v. Granville*, the U.S. Supreme Court held Washington's third-party visitation statute unconstitutionally interfered with the "fundamental rights of parents to rear their children" because no court found that "Granville was an unfit parent."⁸

Seven years later, Pennsylvania's Supreme Court was asked to determine the constitutionality of 23 Pa.C.S. §5312, the predecessor to §5325 in *Schmel v. Wegelin*.⁹ The majority found that the State had a compelling interest

in distinguishing between married and divorced parents because "of the disruption of the intact family by divorce." Chief Justice Cappy argued in his dissent that the majority opinion was jurisprudentially irreconcilable with *Troxel* and could not withstand strict scrutiny, as it failed to analyze how classifying parents by marital status is necessary to protect the compelling interests of the State and that "marital status alone can never serve as an indication of parental unfitness."

In 2010, three years after the Supreme Court's decision in *Schmel*, Pennsylvania's Legislature repealed Chapter 53 and enacted the current Chapter 53, providing standing to grandparents and great-grandparents (§5325) and requiring Courts to determine the best interests of the child by considering the amount of personal contact between the grandparent and child and whether an award would interfere with the parent-child relationship (§5328).

While the changes appear to address the concerns raised by the dissent in *Schmel*, they do so, not as a condition of standing, but as a factor to be considered in determining whether court-ordered grandparent visitation is in the best interests of the child. Not only does this fail to satisfy the constitutional requirement that grandparent standing be



**When I say
"good"
you say
"neighbor."**

**Now that's teamwork.
Call For A Quote 24/7**

Kris Feliciani,
State Farm Agent
 724.925.1700 office
 724.925.1307 fax
 410 Burton Ave., Suite A
 Youngwood, PA 15697
kris@callkris4insurance.com



State Farm Mutual Automobile Insurance Company
 State Farm Indemnity Company, State Farm Fire and Casualty Company
 State Farm General Insurance Company
 Bloomington, IL

⁴ Dissent in *Schmel v. Wegelin*, 927 A.2d 183 (2007).

⁵ *Troxel v. Granville*, 530 U.S. 57 (2000).

⁶ *Ponko, Id.*, at p.4, quoting *Reno v. Flores*, 507 U.S. 292, 304 (1993).

⁷ "The Scarlet 'N': Grandparent Visitation Statutes that Base Standing on Non-Intact Family Status Violate the Equal Protection Clause of the Fourteenth Amendment." *St John's Law Review*. Vol. 83, Issue 2 (January 2012).

⁸ 530 U.S. 57 (2000).

⁹ 927 A.2d 183 (Pa.2007).

predicated on a finding that the parents are unfit, it further requires protracted litigation, psychological evaluations, and a tug-of-war between the parents and grandparents that in many cases may actually cause the very harm to the child that the Legislature is trying to avoid. By seeking court involvement, grandparents are establishing battle lines, pitting parent against grandparent, and creating a clearly defined winner and loser, the children being “the prize.”

This places the children in a position of having to choose, fueling feelings of confusion and disloyalty. Children who witness their parents struggling with litigation, its costs and emotional tolls, may feel disloyal for wanting to visit the grandparents or may blame the parent for putting the family in this position. Teenagers caught in the struggle may resent the grandparents for demanding time they would otherwise have with friends or extracurricular activities or demand less time with their parents to accommodate the grandparents’ court-ordered time.

Without a threat of actual harm from which the children must be protected, the State’s intervention in the parents’ decision-making creates, rather than alleviates, family disharmony, particularly at a time when, by virtue of the separation, there may already be battle lines drawn and sides chosen. That is not to say that grandparent visitation is not important and even sometimes necessary; however, those

facts need to be established as a matter of standing before further litigation is permitted to proceed.¹⁰

It was for these reasons that Judge Smail ruled §5325(2) to be unconstitutional. Contrary to a recent *Tribune-Review* article which decries that grandparents’ rights are imperiled, grandparents’ rights to file for custody when there is a finding of parental unfitness remains untouched. While the case is currently on appeal to the Pennsylvania Supreme Court, fear of the decision being upheld should not cause concern: it is not an attack on the statutory rights of grandparents in appropriate cases but rather a reaffirmation that parents’ rights to raise their children as they see fit is a fundamental liberty interest protected

“Parents’ rights to raise their children as they see fit is a fundamental liberty interest protected by the Fourteenth Amendment.”

by the Fourteenth Amendment to the Constitution of the United States and cannot be intruded on by the courts, or any branch of government, without very compelling reasons; any effort to do that simply because a family is breaking up is an unwarranted invasion into that liberty interest and a denial to such a family of equal protection of the law. ■

¹⁰ If there is a finding of actual or impending harm to the child (i.e., parental unfitness), the State clearly has a compelling interest to protect the children. Section 5325 (1) when a parent dies and (3) when the grandparent stood *in loco parentis* for twelve months prior to the child being removed from the grandparents care by the parent, are examples of circumstances under which grandparent standing is appropriate. Section (2) is not.

When you have the right financial advisor, life can be brilliant.

What matters most to you in life? It’s a big question. But it’s just one of the many questions I’ll ask to better understand you, your goals and your dreams. All to help you live confidently – both today and well into the future.



Timothy M. Henry
CRPC®, AWMA®, APMA®
Financial Advisor

724.600.0170
232 W Otterman Street
Greensburg, PA 15601

timothy.m.henry@ampf.com
ameripriseadvisors.com/
timothy.m.henry
CA Insurance #0124667

Timothy M. Henry

An Ameriprise Platinum Financial Services® practice

Ameriprise
Financial



Be Brilliant™

Jury Trial Verdicts

continued from page 6

experiencing numbness in his left leg, Plaintiff decided to seek medical treatment five days after the incident.

Prior to his fall, Plaintiff already had four back surgeries. He alleged that the slip and fall at the Baird residence aggravated a pre-existing condition and resulted in another back surgery. Despite the surgery, Plaintiff was unable to return to work or regular daily activities. He indicated that he suffered from headaches and back pain. Consequently, he sought monetary damages.

At the time of the incident, the residence was jointly owned by Sheila E. Sowers, Randy K. Baird, Pamela G. Lichtenfels, and Cynthia L. Baird; Florence E. Baird held an interest as a life tenant. Plaintiff sought monetary damages against the Defendants as owners of the property. Florence E. Baird passed away prior to the trial.

Defendants denied the allegations and claimed that Plaintiff was negligent in choosing to continue to deliver the meals despite the icy conditions.

Trial Dates: January 11–13, 2016

Plaintiffs' Counsel: Robert B. Woomer, Woomer & Hall, LLP, Pgh.

Defendants' Counsel: Dwayne E. Ross, Reeves and Ross, PC, Latrobe

Trial Judge: The Hon. Chris Scherer

Result: Verdict in favor of Defendants. ■

Eighteen Months In Review

continued from page 7

language, without reservation to rule from the Bench when necessary.

It is my belief that there is a time for everything. This moment is the time to thank those who have supported me these many years, the most of whom is Almighty God. In going forward, I believe that respect for the Court is a paramount goal. Respect for the Court can be gained by reciprocal respect to the Bar without overt condescension; as a jurist I can set the bar for professionalism in my Courtroom, hoping always that such respect is contagious. In my first-hand knowledge, Family Court represents a diverse, complicated and emotional environment that requires empathy, a willing ear and a stern hand informed by respect for equity and the law.


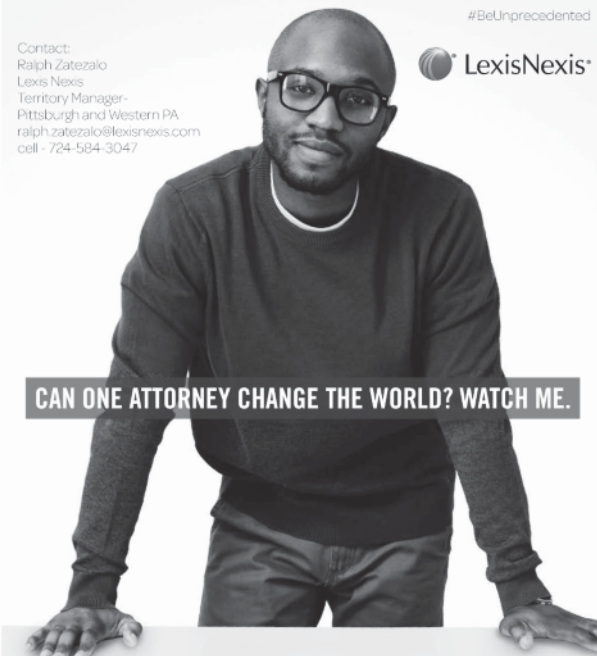
The foundation of my global experiences has set my path in honing those skills ascertained in my first eighteen (18) months on the Bench. With a professional treatment of counsel, litigants, witnesses and staff, I have committed myself to the preservation of the reputation of the 10th District Court as one of the best in the Commonwealth. I will continue striving for a perfected Court environment and best practices. I am optimistic that the practitioners before me will join and continue that cooperative effort. ■

You want to change the world? Here's where you start. It's time to take a look at the future. And redefine what it means to practice in a rapidly changing landscape. Evolving to keep pace with today's legal needs and tomorrow's challenges, the new Lexis Advance® platform is your best place to start. Go ahead and change the world. Lexis Advance is right with you.

Learn more at lexisnexis.com/comingsoon.

#BeUnprecedented

Contact:
Ralph Zatezalo
Lexis Nexis
Territory Manager -
Pittsburgh and Western PA
ralph.zatezalo@lexisnexis.com
cell - 724-584-3047

CAN ONE ATTORNEY CHANGE THE WORLD? WATCH ME.

LexisNexis, Lexis Advance and the Knowledge Burst logo are registered trademarks of Reed Elsevier Properties Inc., used under license. © 2014 LexisNexis. All rights reserved. LA2014-42



OUR DISCIPLINED INVESTMENT APPROACH HAS MADE US TRUSTED BY OUR COMMUNITY SINCE WE OPENED OUR DOORS.

FIDUCIARY SERVICES

TRUSTS, ESTATES AND GUARDIANSHIPS

PORTFOLIO MANAGEMENT

INDIVIDUALS, BUSINESSES AND NON-PROFITS

RETIREMENT INVESTING

IRAS AND 401K ROLLOVERS



cbthebank.com

724.836.7670 • 19 NORTH MAIN STREET, GBG PA 15601

The investment products being offered are NOT insured or guaranteed by the FDIC or any other government agency. They are NOT bank deposits or obligations of any bank. These products are NOT guaranteed by any bank and ARE subject to investment risk including the possible loss of principal.

foundation focus

Pro Bono Looking Forward to Change



by Amanda Stein, Pro Bono Coordinator

The new year is ushering in many changes for the Pro Bono Program! First and foremost, we have moved! Now the actual packing and moving isn't all that exciting, but the newly configured office is fabulous. We have had a definite need for a third private office in our suite so that attorneys can meet comfortably with our clients right in our location.



Amanda Stein

I like to think of this as the "if you build it, they will come" theory. We are really picking up momentum with our brief advice program, and I think the new office just might attract some new attorneys to participate! I do know that we are never at a loss for clients, phone calls, or walk-ins. The new space will provide more opportunity for us to help as many people as possible.

I invite you to stop by the new office! We are now located where the Lawyers Lounge once was, and the Lawyers Lounge has been moved down to our former office. I would like to take this opportunity to extend a HUGE thank you to all of the Courthouse employees who assisted us in the move. We couldn't have done it without you.

Of course I cannot ignore 2015, which brought the program to all of these exciting changes. We are a non-profit organization and obviously

there is always concern for the finances. In the past, we have received grants from several different grantors but unfortunately, a substantial grant from Laurel Legal Services appeared to be in jeopardy. Fortunately, we were able to reconstruct the program in a way that met the requirements of Legal Services Corporation, Laurel's national organization, so that we could continue providing representation in custody cases. Thanks to everyone from our office and board and from Laurel's office and board for all the help in working out the problems. Now we will be able to continue a viable and fully operational custody program to assist our qualified clients!

I constantly attempt to find ways to provide services to our clients, and as is

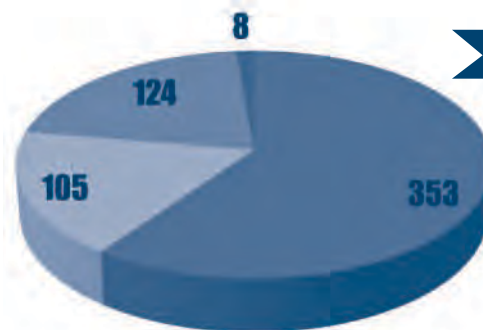
illustrated below, we have many. Most are grateful, some are cantankerous, but in either case, David Millstein, Terrilyn Cheatham, and I try to get them some type of resolution to the issue that plagues them.

David's legal experience enables us to get quick answers to those odd legal issues out there. At times we get some strange questions and those strange questions do not always give rise to a cause of action; just because a client wants a lawyer is not always a sufficient reason to provide one, and we do screen every case to make sure that a decent cause of action exists before we refer to any volunteer attorney.

As always, I want to thank everyone who supports our program. We couldn't be successful without the attorney participation and interest helping our clients.

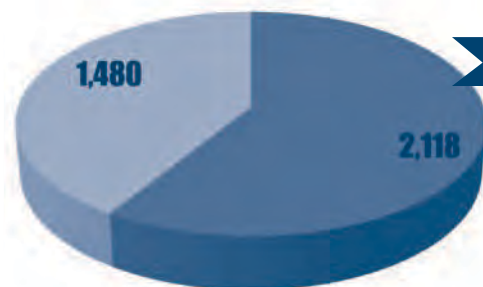
Just as a brief reminder, Law Day is fast approaching! Terrilyn does the scheduling and coordination; therefore, if you want to participate please call 724-837-5539. If you don't call, I can guarantee you will be receiving a phone call! This year's topic is Miranda Rights, so get yourself ready now! ■

Pro Bono Program: 2015 Year In Review



Total New Cases: 590

- Reduced Fee
- Custody Program
- Pro Bono Cases
- Other Cases



Total Contacts: 3,518

- Phone Calls
- Walk-Ins

News from the Court Administrator's Office

Court Assignments, Local Rules, and Civil Purge of Cases

by Amy DeMatt, Court Administrator

For informational purposes for members of the bar, the Court Administrator's office would like you to be aware of the following:



▲
Court Administrator
Amy DeMatt

NEW JUDICIAL ASSIGNMENTS**1. CIVIL/ ORPHANS' COURT**

*(President Judge McCormick, Jr.)
(Guardianships,
Decedent's Estates &
Non-Profits)*

One-third
of all Civil,
Guardianships,

Estates and Non-Profits; Land Use and Zoning Appeals; Petitions for Change of Name; Statutory Appeals (Senior Judges).

2. CIVIL/ORPHANS' COURT

*(Judge Marsili)
(Guardianships, Decedent's Estates &
Non-Profits)*

3. CIVIL/ORPHANS' COURT

*(Judge Scherer)
(Guardianships, Decedent's Estates &
Non-Profits)*

One-third of all Civil, Guardianships, Estates and Non-Profits; Condemnations and Appointment of Board of View; Writs of Seizure and Replevins; Applications for Licenses including Appointment of Humane Officers and Private Detectives; Statements of Objection; Claims for Exemption; Abandoned Vehicle Titles.

4. CRIMINAL COURT

(Judge Pezze)
• Administrative Judge –
Adult Probation and Parole
• Chairperson – CJAB

5. CRIMINAL COURT

(Judge Hathaway)

6. CRIMINAL COURT

(Judge Feliciani)

- Drug Court
- Veterans' Court

7. CRIMINAL COURT

(Judge Bilik-DeFazio)

- Drug Court
- Veterans' Court

8. FAMILY/CUSTODY/ SUPPORT/DIVORCE

*(Judges Bononi, Mears, Smail,
and Krieger)*

- Administrative Judge – Domestic Relations – Judge Mears

9. FAMILY/DELINQUENCY

(Judges Bononi and Mears)

- Administrative Judge – Juvenile Court – Judge Bononi

10. FAMILY/DEPENDENCY

(Judges Smail and Krieger)

- Liaison Judge to Children's Bureau – Judge Smail

11. ORPHANS' COURT TERMINATIONS & ADOPTIONS

(Judges Smail and Krieger)

- Administrative Judge – Terminations & Adoptions – Judge Smail

12. FAMILY/PFA *(Judges Mears, Smail, and Krieger)***13. MENTAL HEALTH**

(Judges Marsili and Mears)

LOCAL RULES

On September 23, 2015, the Court Administrator's office assumed responsibility for publishing the Westmoreland County Local Rules of Court. These may be found on the Westmoreland County web site at www.co.westmoreland.pa.us. To access the rules, go to "Departments > Courts and Judiciary > Courts" and click on the "Local Rules" hyperlink located on the right side of the page.

WAWRZYNIAK REPORTING & VIDEO SERVICE**COMPLETE LITIGATION SUPPORT**

www.wrvs1.com

PROUDLY SERVING WESTERN PENNSYLVANIA FOR OVER 30 YEARS!

EMAIL: WRVS1@VERIZON.NET

CALL: 724.864.6993

FAX: 724.864.3351

Available For:

Depositions
Arbitrations
DJ Hearings
Council Meetings
ZHB Meetings

Services Available:

Video Depositions
Videoconferencing
Video Synching
Day-in-the-life
Site Inspections

"One Call Does It All!"

Users may subscribe to local rules updates by following instructions in the link for automatic updates located on the rules site.

ORPHANS' COURT LOCAL RULES ANTICIPATED CHANGES

Pursuant to Order of the Supreme Court of Pennsylvania (No. 683 of the Supreme Court Rules Docket, entered December 1, 2015), continuing necessity of local orphans' court rules shall be reviewed by the President Judge or his designee in each judicial district. President Judge McCormick has assembled a committee to review the continued necessity of our local rules.

Attorneys who wish to give input as to the continued necessity of local rules should contact either the Westmoreland County Orphans' Court Rules Committee chairperson, Chris DeDiana, Esq., 724-219-3906, or the Court Administrator's office, Amy DeMatt, Esq., 724-830-3828, to provide input.

Local rules deemed necessary shall be submitted to the Orphans' Court Rules Committee no later than **June 1, 2016**. Certain State Orphans' Court Rules are rescinded, replaced or amended, effective **September 1, 2016**.

The new state rules may be found in Volume 45, Number 51, of the *Pennsylvania Bulletin*, available online at www.pabulletin.com/secure/data/vol45/45-51/index.html.

RULES PERTAINING TO CIVIL PURGE OF CASES

Effective December 31, 2016, Pennsylvania Rule of Civil Procedure 230.2, relating to termination of inactive cases, becomes effective again.

(The rule had been suspended.) The amended rule requires the court to terminate certain cases at least one time per year. (Previously, the rule permitted, but did not require, courts to initiate proceedings to terminate civil cases in which there was no activity of record for two years or more.) The new rule now permits notice of proposed termination to be served electronically on counsel of record. The rule continues to contain provisions for filing a statement of intention to proceed to prevent termination of the case.

For the most part, changes with regard to Rule 230.2 will not affect Westmoreland County's procedure regarding the purge of civil cases, as Westmoreland County has elected to purge inactive cases voluntarily, pursuant to procedures set forth in Pennsylvania Rule of Judicial Administration 1901. At last report, Westmoreland County's percentage of civil cases over two years old was at 20%, below the 25% threshold recommended by the Administrative Office of Pennsylvania Courts. ■



Retire...from work.
Reignite...your life.

WADDELL & REED
Financial Advisors™

Investing. With a plan.

LawSpeak

"If we don't believe in freedom of expression for people we despise, we don't believe in it at all."

— Noam Chomsky, linguistics professor and political activist (b. 7 Dec 1928)

Lindsay Turchetta, AWMA Financial Advisor

2016 HIGHLAND AVE
GREENSBURG, PA 15601
P: 724.493.9473
lturchetta@wradvisors.com



New Member Sketches

IMOGENE LILLETTE CATHEY has been admitted as a participating member of the WBA. She earned her Juris Doctor degree (with Honors) from the University of Florida Levin College of Law and her Bachelor's degree in political science (Summa Cum Laude) from Florida A & M University. Imogene was named General Counsel for Seton Hill University in August 2015. She relocated to Greensburg after five years with the University of North Carolina at Greensboro, where she had various roles in the Office of the General Counsel, including General Counsel.

RYAN L. DANSAK has joined the WBA as a participating member. Ryan earned his B.A. from The College of Wooster in Ohio, his M.A. from Arcadia University in Glenside, Pa., and his J.D. from Duquesne University School of Law. A partner with Myers Duffy Dansak & Clegg LLC in Irwin, Ryan and his wife, Gina, reside in North Huntingdon.

ALAINE G. GENERELLI was admitted to the WBA as a participating member. She earned both her Bachelor's and J.D. from the University of Pittsburgh. Alaine is an associate with Geary-Loperfito-Urti LLC in Vandergrift. She and her husband, Daniel Carr, live in Freeport with their two daughters, Bianca and Madaleine. ■

Promise 
Hospice™

121 N. Main Street
Suite 310

Greensburg, PA 15601

Phone: (724) 515-5251

Fax: (724) 382-4312

www.promisehospice.com

Promise 
Concierge Service™

Letters to the Judge

Your honor, Sir,
It was as nice as we could possibly make it. My cellmate, Jeeter was the committee chair, and saw to it that festive crepe paper banners hung down from the mess-hall ceiling; there was a Gatorade and Sprite punchbowl; gingerbread lawyers with one hand holding a briefcase made of raisins; and in the background we could hear the Bobby Fuller Four singing "I Fought the Law."



It was, of course, Friday, November 6th, the day clearly and unequivocally designated by the Law Practice Division of the American Bar Association as "Love Your Lawyer Day." I'm sure you stopped in the midst of your busy schedule to acknowledge it, unless you were distracted or a bit confused by the fact that this particular Friday was also "National Nacho Day" and "National Saxophone Day."

In addition, we had an oversized greeting card made for the public defender's office, signed by most of the fellows in our cellblock. Those who had been represented by private counsel wore a string around their necks which held up a piece of cardboard with a number on it indicating the amount each one had cheerfully paid out in fees. It was sort of a competition without a prize, but the ones who had the highest numbers sort of had bragging rights, for logically, it could be said that they loved their lawyers the most.

Your honor, I think this is the beginning of a grand tradition, for according to the ABA it is hereafter to be observed the first Friday of every November. I certainly hope you sense its significance and you will do your best, through your rulings, to show the bar how much you care for them. In the past your honor has not seen fit to respond to my pro se petitions for early release, but my Darla Jean's nephew has recently passed the bar and hopes to appear before you soon with a similar motion on my behalf. Your affectionate treatment of him will demonstrate that you will do all you can to assist the aspirations of the national bar.

Fondly,
Ricky H. Benbow, Sr.

To-Wit: Shut My Mouth

by S. Sponte, Esq.

It was a raucous peal of laughter that first caught my attention. It came from the file room, first as a little snorty chuckle, then as a few guffaws, then as a torrent of hilarity from deep in the belly.

Since there is nothing more corrosively disruptive to the practicing of law than unbridled merriment, I immediately made haste to the file room to discover its source and quell it aborning. There I found my longtime and until then beloved secretary seated on the floor, an empty accordion folder beside her, papers strewn all around, tears of laughter streaming down her cheeks.

I could not immediately call to mind any old cases that warranted such mirth, save perhaps two or three imprudent appeals I had long ago filed, which, judging by the opinions they

had engendered, appeared to have provided the appellate courts with much jollity.

“I am quite besotted with both a spleen easily exasperated by the adversarial rigors of lawyering and a vocabulary blissfully rooted in expletives.”

“Okay,” I queried at the top of my lungs, “what’s so funny?” Wiping away the tears, she stuffed all the papers willy-nilly back into the file folder, handed it to me, and walked back to her desk with that insouciant stroll she long ago affected as a result of my many years of complete dependency on her.

I took the file into my office and started through it. Unlabeled, it contained only an assortment of letters I had written on many different cases over many years, seemingly connected only by the extraordinarily opulent and highly prolific incivility running throughout; I knew at once what she had done.

You see, I am quite besotted with both a spleen easily exasperated by the adversarial rigors of lawyering and a vocabulary blissfully rooted in expletives; and whenever provoked by an opposing pleading, brief, letter, opinion, memory, fantasy, or dream, I immediately dictate to my secretary responsive letters engorged with

continued on page 16



Intellectual Property Law Patents, Trademarks, Copyrights

NILS H. LJUNGMAN, JR. NILS H. LJUNGMAN & ASSOCIATES
724-836-2305 nhla@earthlink.net ljungmanandassociates.com



- Over 30 years of practice before the U.S. Patent and Trademark Office
- 95% success rate in obtaining U.S. patents with over 1600 U.S. patents issued (overall average success rate for all U.S. patent practitioners is 46%)
- Registered at Canadian Patent Office with over 300 patents issued
 - Registered over 300 Federal and Pennsylvania trademarks
- Obtained patents in all major countries, including European Union, Japan, China, U.K., Germany, Brazil, Mexico, etc.

Bachelor's degree in Engineering from New York University
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

To-Wit: Shut My Mouth

continued from page 15

wonderful insults and astonishingly original vituperations which serve to vent my ire. She then routinely sanitizes them and presents for signature something far more civilized and appropriate.

It's an unspoken ritual we've been doing now for forty years. I've always been silently grateful to her for that overlay of professionalism and I know that, although similarly taciturn, she is thankful for my teaching her how all those hard consonant expletives can be configured to apply to almost any situation. It now appears she has been clandestinely keeping the originals, and that was the file I now held in my hands.

"Dear Mr. _____," I had dictated to a particularly illegitimate-from-birth landlord, "If you persist, I will seek a writ of *fiere facis*, which means I will set fire to your face."

"Dear Attorney _____, It is not true, as you have complained, that I take issue with the grammar in your pleadings. To the contrary, I take issue with its absence."

"Dear Judge _____, Congratulations on your masterful proof of Einstein's Theory of Relativity. When you handed out your written opinion immediately after our oral argument, I knew at once you had written it at the speed of light, for in it all real matter has simply ceased to exist."

There's more, much more, but perhaps this sampling, with the best words expunged, gives you a hint. Oh, what do you do with a secretary like that, one who persistently and without explicit invitation intrudes into the workings of a luridly creative and unfettered mind? Well, you do what I do: keep her around and pay her well. The cost of doing otherwise is simply prohibitive. ■

©2016, S. Sponte, Esq.

where in the world IS THE WBA MEMBER?



After a riverboat tour that took them from Paris to London last July, Les Mlakar and his wife, Janice, extended their vacation to visit friends in Peebles, Scotland. They stayed at The Cross Keys, the town's oldest inn, which dates back to 1693. Les says although the inside has been renovated, the slate roof tiles are original.

PEEBLES, SCOTLAND



THE HON.
DAVID A. REGOLI

noblemediation, LLC
A limited liability company

JOHN M. NOBLE, ESQ.
is pleased to announce that

THE HON.
DAVID A. REGOLI

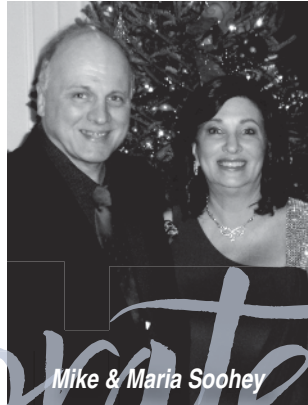
is now associated with
noblemediation, LLC
and is accepting private
Mediation and Arbitration referrals.

For inquiries/scheduling contact:
ADR Assistant Michele Miller
724-925-1123 • Efax: 412-202-4118
Michele@noblemediation.com

Candid Camera: 2015 Holiday Dinner Dance

The WBA headed to the famous Oakmont Country Club for the Holiday Dinner Dance on Saturday, December 5, 2015. The event offered a festive atmosphere showcasing dinner, dancing, and the bar foundation's annual fund-raising auction. Entertainment was provided by Murphy's Big Band Orchestra.

celebrate



Mike & Maria Soohy



Eric & The Hon. Michele Bononi



Gina Sciarrino & Sean Cassidy



Joe & Dr. Karen Lazzaro and Amy & John Ranker



Jessica Rafferty, Joyce Novotny-Prettiman, Dara DeCourcy & Kelly Eshelman



The Hon. Denise & Allison Thiel



Kelsey & Zach Kansler



Liznelia & Brian Bronson



Kathy & Dennis Rafferty



Karen Ferri & Philip Reiche



Elizabeth & Jeremy McCall



The Hon. Scott Mears, Annaliese Masser & Monique Lafontant Mears

The Bench/Bar at 30 *continued from page 5*

stars. Produced by Peggy Tremba, and choreographed by Lisa Monzo, the shows had leading men, such as Reg Belden and Dick Galloway, whose reputations at the bar were such that they felt they had nothing to lose.

When the houselights dimmed, causing a hush of anticipation, the audience was treated to such beloved favorites as *The Wizard of Laws*; *The Phantom of the Courthouse*; *The Sound of Lawyer*; *Lyalot*; *Law Firm Story*; and *Lawyer on the Roof*, and no one will forget the award-winning song from *Phantom*, “Wishing I Could Get a Different Judge.” To be honest here, a large part of the hush among members of the audience came from anxiety. These were uncompromising satires which drew a lot of material from the real foibles found in the practice, and when the curtain came down, more than one bar member would breathe a sigh of relief that they hadn’t been mentioned. As for those who were mentioned, most of their claims were settled out of court.

It seems likely that we would not have had conferences of such high quality were it not for the many generous corporate vendors who set out their displays in the larger public rooms, and who sought the goodwill of bar members by treating them to such things as motorboats and Apple stock.

This June, for the first time, invitations to the conference are being extended to include spouses, partners, and significant others. To a small fraction of the membership, the all-inclusive invitation may be viewed as a little confining (No, Honey ... we’re not signing up for the pub crawl), but the Bench/Bar has always been fit for family viewing. In the past 29 outings, there was only one time when the police were called upon to evaluate attendee conduct.

The Bench/Bar has an illustrious past; join us in June and be part of its future. ■





USI
AFFINITY

This is where
lawyers
go for protection.

Call 1.800.327.1550
now for your **FREE** quote.

Or go to www.nybarinsurance.com/pba

Call today for more information on
the insurance products available to
Westmoreland Bar Association members.

As a national leader in legal insurance, USI Affinity is proud to carry the endorsement of the Westmoreland Bar Association.

Sometimes even attorneys need a little counsel of their own. That's why they turn to USI Affinity, the company that has been advising attorneys on insurance for 75 years. We know more about what attorneys need and can offer a variety of insurance options for firms of any size.

We go beyond professional liability to offer a complete range of insurance solutions covering all of your needs.

USI Affinity's extensive experience and strong relationships with the country's most respected insurance companies give us the ability to design customized coverage at competitive prices. Coverage includes:

- * Lawyers' Professional Liability
- * Business Insurance
- * Medical & Dental
- * Life & Disability
- * Personal & Financial

Actions of the Board

NOVEMBER 18, 2015

- Voted to schedule a meeting with the Building Committee as soon as possible to discuss building usage of the WBA headquarters.
- Voted to join other county bar associations in adopting a resolution to oppose the American Bar Association's partnership with Rocket Lawyer in that it establishes an online lawyer referral service that could potentially compete with the local bar association referral services.
- Voted to send a copy of the WBA opposition resolution of the Rocket Lawyer program to the President of the PBA.
- Voted to accept Commissioner Kopas' offer to switch the location of the Pro Bono office with the Lawyers Lounge at no cost to the WBA for the purpose of providing additional office space to the Pro Bono program.
- Voted to change the healthcare policy for WBA and WBF employees to Aetna Healthcare.
- Accepted the recommendations of the Membership Committee for new participating members: Alexander Guminanski, Imogene Cathey, Lisa Peluso, Christina Gongaware, and Kenneth Noga.
- Reappointed April Knizner and Matt Schimizzi to the LLS board for additional three-year terms.

- Voted to hire an administrative assistant consistent with the employee benefits package as outlined by the WBA board. ■

Keeping Up With The Young Lawyers

Today's young professionals are the movers and shakers of the workforce, and the Young Lawyers of the Westmoreland Bar Association are no exception. Here are a few things that are keeping our Young Lawyers busy.

- After clerking many years with the now-retired Judge John Driscoll, **Allison Thiel** is now an associate with Galloway Monzo in Greensburg. She can be reached at 724-837-6000.
- A number of new attorneys have joined the ranks of Tremba, Kinney, Greiner & Kerr in Greensburg. Within the last year, the firm has welcomed **Michael W. Hilliard**, **Jane Myhers**, **Claire E. Throckmorton**, and **Nicholas R. DiNardo**. All can be reached at 724-838-7600.
- **Kristen Weidus** has joined Ruder Law in Pittsburgh as an associate attorney. Ruder Law helps parents of children with special needs address educational problems throughout Western Pennsylvania. She can be reached at 412-281-4959.
- **Nelson Berardinelli** has also joined a firm in Pittsburgh. As an associate with Kraemer Manes & Associates, he is focused on employment and commercial litigation. He can be reached at 412-626-5565.
- **Shane Sarver** has joined Meyer Darragh Buckler Bebenek & Eck in Greensburg as an associate

BRIEFLY SPEAKING



Patrick Noonan, an associate general counsel in the University of Pittsburgh's Office of General Counsel since 2004, has been appointed assistant vice chancellor and deputy chief legal officer at the University. In addition to

litigation duties, Pat will oversee the operations of the general counsel office, including the management of the administrative staff.

Pat has practiced law for 27 years. Prior to joining Pitt, he served as an assistant district attorney for Westmoreland County and as an assistant U.S. attorney for the Western District of Pennsylvania. He is a graduate of the University of Notre Dame and the University of Pittsburgh School of Law. ■

attorney. His areas of practice include municipal law, criminal law, family law, civil litigation, and wills and estates. Shane can be reached at 724-853-2297.

- **Shane Gannon** has started his own law practice in Dunbar, Pa., where he focuses on criminal defense, divorce, custody, personal injury, civil litigation, and real estate. He and his wife, Kinley, are the proud new parents of a baby girl, Isla Jane, born in October.
- **Zach Kansler** and his firm, Tremba, Kinney, Greiner & Kerr, were recently sworn in as the City of Latrobe's new solicitor. Zach takes over from former solicitor Jim Kelley, who retired at the end of January.
- **Don Rega** has returned to the practice of law, joining John Hauser at Latrobe Law Associates. He can be reached at 724-539-1111. ■

got news?

Do you have news to share with the sidebar? Making Partner? Engagement? Marriage? Birth? Moving? Retiring? Anniversary? Milestones? Awards? Community Involvement? Accomplishments? Email westbar.org@westbar.org and we'll publish your news in the next available issue.

wba news



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**.*

MARCH


- 9** Real Estate Committee, Noon
- 15** Family Law Committee, Noon
- 16** Membership Committee, Noon
Elder Law & Orphans' Court Committees, Noon
Ned J. Nakles American Inn of Court, 5 p.m.
- 17** Board Meeting, 4 p.m.
- 25** Courthouse closed in observance of Good Friday
- 30** Presentation of New Members, Westmoreland County Courthouse, Courtroom No. 3, 3 p.m.

APRIL

- 4** Annual Meeting of the Westmoreland Bar Association and Westmoreland Bar Foundation, Rizzo's, Crabtree, Pa., 4:30 p.m.

- 6** Night at The Museum, 4:30 p.m.
- 14** [CLE] Personal Injury Update, Noon to 2:15 p.m., 2 substantive credits available
- 19** Family Law Committee, Noon
- 20** Membership Committee, Noon
- 21** Board Meeting, 4 p.m.
Ned J. Nakles American Inn of Court, 5 p.m.
- 27** [CLE] Video Compliance Seminar, 9 a.m. to 4:15 p.m.
- 29** [CLE] Serving Those Who Served: Veterans Benefits, Programs and Legal Issues, Penn State Fayette, Eberly Campus, 9 a.m. to 12:15 p.m., 2 substantive and 1 ethics credits available

You are not alone.



One in three lawyers will need our help at some point during their careers.
Since 1988, we have helped over 6,000 attorneys in need.

A WORD ABOUT CONFIDENTIALITY
We understand your concerns about privacy and confidentiality. LCL is equally sensitive about your career and your license.
We know it is hard to ask for help. LCL discreetly provides resources, support and information.
Your call to us and the help we provide is confidential. You incur no expense or any other obligation by calling LCL.

We can often help when others cannot.
1-888-999-1941
Lawyers Concerned for Lawyers

TREKKING WITH TIM



HAVE YOU MADE YOUR PLEDGE YET?

This is your chance to go **Trekking with Tim** in support of the Westmoreland Bar Foundation to help with much needed funding for Pro Bono. Pledge an amount for every mile that Tim covers. A \$.05/mile will be \$50 for the Foundation, a \$.10 pledge will raise \$100, \$.25 will bring in \$250 and \$1/mile raises \$1,000.

Follow Tim's heroic efforts to complete – on foot - the 1,000 mile Iditarod Trail Invitational across the frozen, desolate Alaska wilderness in less than one month at trackleaders.com/iti16 . Learn more about the race visit iditarodtrailinvitational.com.

If you can correctly guess how many days, hours and minutes to complete the race you will be rewarded with a gift at the April 4th WBA/WBF annual meeting.

Reply by email (westbar.org@westbar.org) or call the office (834-6730) with your pledge and your guess for Tim's time: days, hours and minutes.



		PLEDGE FORM	
	Sponsor Name/signature	email	Pledge Amt/mile
1			



You are cordially invited to attend the
Presentation of New Members
of the
Westmoreland Bar Association
March 30, 2016



*The court en banc will recognize the newest members of the WBA at the annual
New Members Ceremony scheduled for
Wednesday, March 30th,
in Ceremonial Courtroom #3 at the Westmoreland County Courthouse at
3:00 p.m.*

Attorneys eligible to participate in this presentation:

<i>Andrew Blenko</i>	<i>Richard J. Lorenz</i>
<i>Imogene L. Cathey</i>	<i>Jane Myhers</i>
<i>Nicholas R. DiNardo</i>	<i>Kenneth F. Noga</i>
<i>Alaine G. Generelli</i>	<i>Erin L. O'Neill</i>
<i>Christina Gongaware</i>	<i>Lisa C. Peluso</i>
<i>Cody J. Harding</i>	<i>Adam N. Quatrini</i>
<i>Christopher L. Harkins, Jr.</i>	<i>Michael S. Russell</i>
<i>Michael W. Hilliard</i>	<i>Christopher Skovira</i>
<i>John S. Kamarados</i>	<i>Andrew M. Snyder</i>
<i>Timothy J. Leonard</i>	<i>Marco F. Sylvania</i>
	<i>Claire E. Throckmorton</i>



***Please join us for a complimentary reception
at the Rialto Event Room following the ceremony.***

***RSVP by March 16, 2016
to the WBA Office 724-834-6730
or register online at www.westbar.org***

New Member Ceremony and Reception Sponsored by



Member FINRA/SIPC
An SEC registered investment advisor

WE NEED YOU FOR LAW DAY 2016

This year, the United States marks the 50th anniversary of its best-known U.S. Supreme Court case, *Miranda v. Arizona*.

The *Miranda* Warning has become ingrained in law enforcement and has permeated popular consciousness through countless recitations in films and television shows.

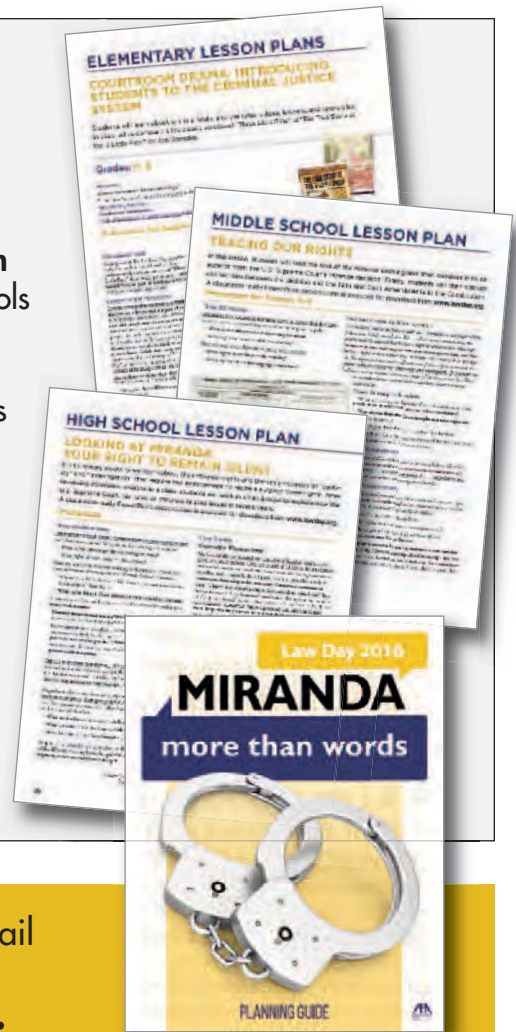
The 2016 Law Day theme “*Miranda: More than Words*” will explore criminal justice and human rights in our country, the procedural protections afforded to all of us by the U.S. Constitution, how these rights are safeguarded by the courts, and why the preservation of these principles is essential to our liberty.

LAW DAY CLASSROOM VISITS

As in years past, we are asking **Westmoreland Bar Association members to volunteer for classroom visits** in Westmoreland County schools during the month of **May 2016**.

We will provide informative and engaging lesson plans and materials for classrooms from K–12 that will educate students about their legal rights and responsibilities.

Law Day provides lawyers and judges with a wonderful opportunity to become involved in our community. To volunteer, return this form to the Pro Bono Program by **Thursday, March 31, 2016**.



To volunteer, register online at www.westbar.org/lawday, email **Terrilyn Cheatham** at terrylyn.probono@comcast.net, or return the form below via fax or mail by **Thursday, March 31, 2016**.



YES! SIGN ME UP FOR LAW DAY! To volunteer for Law Day 2016, register online at www.westbar.org/lawday, email terrylyn.probono@comcast.net, or return this form via fax (724-837-4221) or mail to **Terrilyn Cheatham**, Pro Bono Program, Westmoreland County Courthouse, 2 N Main St, Greensburg PA 15601, by **Thursday, March 31, 2016**. Thank you for your interest!

Name _____

Firm _____

Address _____

City _____ State _____ ZIP _____

Phone _____ Fax _____ Email _____

School/School District Preference _____ Grade(s) Preference _____

Availability (weekdays in May) _____

2016 Personal Injury Update

— LIVE — 2 Substantive Credits Available



An accredited provider for the PA Board of Continuing Legal Education

Topics of Discussion include:

- A review of significant case law developments.
- Strategies for handling complex or difficult Subrogation issues.
- Procedural requirements for properly settling a Wrongful Death and Survival Action.
- Discussion of the nuances of engaging in pre-litigation settlement negotiations with insurance claims adjusters.

Speaker:

Michael D. Ferguson

Ferguson Law Associates



Two (2) Substantive 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.

April 14, 2016

2016 Personal Injury Update

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 (2 credits=\$60)
- Non-Members - \$50 per credit hour (2 credits=\$100)

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 April 13, 2016.**

**Thursday,
April 14, 2016
12:00 pm - 2:00 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm April 13, 2016)

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.

How to Manage Your Office and Your Personal Email



In recognition of Administrative Assistant Day, we have put together a complimentary catered lunch for **you and/or your staff**, plus a seminar on "How to Manage Your Office and Personal email".

Have you heard yourself say "I can't find anything in my inbox?" "I could spend my whole day responding to email." "I receive hundreds of email a day."

Date: Friday April 22, 2016

Time: 12:00-1:15 pm

Location: WBA

129 N. Pennsylvania Ave., Greensburg, PA 15601

Speaker: Gina McGrath,
Technology Director of YWCA

**YWCA IS ON
A MISSION**

eliminating racism
empowering women
ywca

Space is limited. Make your reservations TODAY by calling the WBA office at 724-834-6730 or by email at westbar.org@westbar.org. Open to you and/or your support staff.

Serving Those Who Served: Veterans Benefits, Programs and Legal Issues

Location: Penn State Fayette, Eberly Campus

Corporate Training Center - Eberly 116, 2201 University Drive, Lemont Furnace PA 15456

— LIVE —
2 Substantive & 1 Ethics
Credits Available



Sponsored by:

- Westmoreland Bar Association
- Fayette County Bar Association
- Penn State Fayette

Friday,
April 29, 2016

9:00 am - 12:15 pm

Penn State Fayette

Eberly Campus

Corporate Training Center - Eberly 116

2201 University Drive

Lemont Furnace PA 15456

Seminar Fees:

CLE Credit

Only \$50 for 3 CLE Credits
(2 Substantive & 1 Ethics credits)

FREE for Non-Credit

Public Welcome

Sponsored by:

- Westmoreland Bar Association
- Fayette County Bar Association
- Penn State Fayette

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

Journey to Normal: Women of War Come Home is a documentary that recounts the remarkable story of women who have served in combat in Iraq and Afghanistan.

PURPOSE:

- TO ADVANCE a deeper understanding for these individuals as they transition from service member to veterans, and to communicate that understanding to the general public.
- TO CULTIVATE a network connecting veterans to one another, and connecting both professionals and the general public to veterans
- EDUCATION and awareness for employers, behavioral health professionals, and civilian communities working with veterans returning from combat

Viewing of the film is scheduled to begin at 9:00 a.m. with commentary during and after the film.

Two (2) SUBSTANTIVE & 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.

April 29, 2016 Serving Those Who Served: Veterans Benefits, Programs and Legal Issues

Name: _____

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

Attorney I.D. # _____

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

Address: _____

Card # _____

Email: _____

Expiration Date _____

Phone: _____

Credit Card Billing Address _____

Registration Fees

CLE Credit:

\$50 = 2 Substantive & 1 Ethics Credits

Non-Credit:

FREE

Please return this form and your payment to the WBA Office, 129 North Pennsylvania Avenue, Greensburg, PA 15601, **by 12 pm April 28, 2016.**

New Lawyers Bootcamp 2016

— LIVE — 1 Substantive Credit Available



An accredited provider for the PA Board of Continuing Legal Education

Basic Procedures of Magisterial District Judge Cases

Speakers:

- The Honorable Denise Thiel
- The Honorable L. Anthony Bompiani
- The Honorable Charles R. Conway III
- The Honorable Helen M. Kistler

One (1) Substantive 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.

May 18, 2016

Basic Procedures of Magisterial District Judge Cases

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
- Young Lawyers - \$15 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 May 17, 2016.**

**Wednesday,
May 18, 2016
12:00 pm - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

CLE Credit

WBA Members - \$30 per credit hr.
Non-Members - \$50 per credit hr.
Young Lawyers - \$15 per credit hr.

Non-Credit

No Charge

WALK- IN:

CLE Credit

WBA Members - \$40 per credit hr.
Non-Members - \$50 per credit hr.
Young Lawyers - \$15 per credit hr.

Non-Credit

No Charge 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.

Expungement and The Lifelong Consequences of a Criminal Record

— LIVE — 1 Substantive Credit Available



An accredited provider for the PA Board of Continuing Legal Education

Topics of Discussion include:

- Statutory and case law review.
- What can and cannot be expunged.
- Adult vs. Juvenile.
- Intended and unintended consequences.
- Recent legislative efforts.
- The ethics of expungement pro bono.

PRIZES!!

**Pro Bono
Volunteers
Receive Free
CLE Credit**

Speaker:

David K. Trevaskis, Esquire

PBA Pro Bono Coordinator

One (1) 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.

May 24, 2016

Expungement and The Lifelong Consequences of a Criminal Record

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 May 23, 2016.**

**Tuesday,
May 24, 2016
12:00 pm - 1:15 pm
WBA Headquarters**

Seminar Fees:

PRE-REGISTRATION:

(Must be prepaid & received at the WBA office by 12 pm May 23, 2016)

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.