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**THE NEWSLETTER OF THE
WESTMORELAND BAR ASSOCIATION
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NOVEMBER 2021**

The World at War, Chapter 17: Who Was That Masked Man?

by David J. Millstein, Esq.

When it comes to the issue of masking during this gruesome pandemic, my guess is that two hundred years from now, Americans will look back



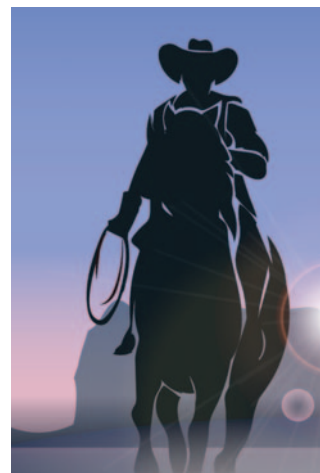
David Millstein

at these tempestuous times and laugh derisively at us the same way Ralph Kramden used to laugh at Alice. Such prospective merriment ought not be considered insulting so much as our future fellow citizens merely

catching up with where the rest of the world is today.

I mean, come on now, who among us, in our wildest, most delirious, and intoxicated frenzy, could have dreamed up the intensity of the fighting that now exists over whether wearing a mask during this horrific pandemic can be mandated by the government? A thorough and insightful analysis of this situation could be based on the premise that the conflict pretty much

aligns along political party affiliations, but such a discussion is beyond both the ken and the barbie of your humble author. It is also most probably beyond the ken of Sigmund Freud as well. It is worth noting, however, that a somewhat similar contretemps raged in Vienna during the height of his career, a battle royale over whether the government could compel citizens below a certain IQ to have the word “doofus” tattooed across their foreheads. Freud described the extreme and combative divergence of views as “the inanity of the rectally focused mindset.” Coincidentally enough, that brouhaha also followed political party affiliations, and the matter was not fully resolved until the pro-doofus party and the anti-doofus party confronted each other in front of Vienna’s famous town hall, Das Enormaschfanzter, in December 1928. It was 12 degrees below zero, and the conflict quickly resolved when both sides agreed to each declare victory and then adjourn to the nearest kaffeehaus for bagels and lox.



Our nation’s current mask tempestuousness is not a new thing. In fact, it is almost perfectly reflected in the distant mirror of 1918 when the Spanish Flu pandemic killed 675,000 Americans and 50,000,000 people worldwide. Most folks voluntarily complied with masking and social distancing rules, but despite the most earnest efforts of state and local

governments, there remained a hard-core group who simply refused to conform. Referred to as “mask slackers,” they maintained that such rules interfered with their constitutional right to smoke, to engage in highly intimate physical relations, and to spit whenever and wherever they pleased,

all of which masks hindered to some degree or other.

Remember, this was more than a century ago, a time when spitting was regarded with as much national reverence as baseball, and just as competitive. When local governmental entities launched the campaign to remind everyone that spitting in public could be hazardous to health, the

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LAW IN THE TIME OF
COVID-19

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President's Message

Technology Brings Us Together

by Judith Potoka Petrush, Esq.

In my Intro to Marketing class in college (way back in the 20th century), my professor explained that telephones with video capability had been developed a decade or more prior but were a sales flop because no one wanted to worry about looking nice while talking on the telephone. Now, hardly a week goes by without at least one

virtual meeting. Many of us have embraced FaceTime and Zoom, with and without fancy filters!

Of course, we all enjoy in-person interaction but online capabilities can turn a “regrets” RSVP into a “yes!”

The reason for holding a videoconference or hybrid meeting may be for convenience, to limit expenses, to save time or travel, or to protect health, or cope with an illness. Videoconferencing enables more participation and inclusion.

Since May, the WBA has been welcoming members in person and online. We have also encouraged hybrid committee meetings. Unfortunately, some of the camera equipment that we ordered was delayed due to supply shortages. The hybrid meeting option was awkward and involved passing around a laptop to an in-person speaker so that any online participants could see and hear them. Because of this, our committees typically have elected to meet either fully in person or fully virtually.

But now, the hybrid option is finally a reality. We are happy to announce that all of our equipment has finally arrived, has been installed, and is ready!

With thanks to Judge Ackerman for providing a list of historical figures



important to Westmoreland County, the “Big Room” is now named the St. Clair Room after Arthur St. Clair.¹

The St. Clair Room is fully equipped with videoconference equipment, web conferencing cameras with remote control and 10X zoom, a sound system, speakers and amplifiers, wireless hand-held microphones, a receiver, a Lenovo laptop and the HDMI transmitter and distribution systems that make all of the magic happen! Now, online and in-person meeting participants will have an improved experience and feel more connected.

Recently, I read a great online article about hybrid meetings: “What it Takes to Run a Great Hybrid Meeting,” by Bob Frisch and Cary Greene.² This article recommends eight best practices to make hybrid meetings more effective.

1. Frisch and Greene recommend to “[u]p your audio game.” Gone is reliance on telephone

¹ Caretaker of the decommissioned Fort Ligonier in the late 1760s, Arthur St. Clair served as justice for the area that would become Westmoreland County and was the first prothonotary and clerk of courts when Westmoreland was carved out of Bedford County in 1773. Following the Revolutionary War, St. Clair served as president of the Continental Congress, preceding George Washington as head of the new American government, and governor of the Northwest Territory.

² Harvard Business Review, June 3, 2021, hbr.org/2021/06/what-it-takes-to-run-a-great-hybrid-meeting.

speakerphones. Our St. Clair Room is equipped with high-quality microphones that can be passed among the in-person attendees or set up on a mic stand.

2. Next, organizations should explore a technology boost. The WBA is ready with the latest version of Zoom and can accommodate WebEx and other online meeting platforms.

3. Frisch and Greene state that you should consider video from the remote participant’s perspective. Our two conference room cameras are able to zoom in so that we can feature any speakers.

4. “Make remote participants full sized.” Our conference room has two large screen televisions to broadcast our remote participants. These monitors worked great when our high school mock trial competitors conducted their trials remotely while WBA members served as jurors, scoring from their seats in our St. Clair Room.

5. “Test the technology in advance.” It’s a great idea to make sure that remote meeting participants are comfortable using their meeting app. Also, the meeting runs more smoothly if the host is either proficient with screen sharing or emails any materials in advance. Those high school Mock Trial students seamlessly shared their screens when introducing their exhibits and that ability really kept the trials moving. The same will hold true for our hybrid meetings.

6. Frisch and Greene recommend that you design meetings for all attendees and consider what tools and techniques can be used to maximize interaction with in-room attendees. The WBA Building Committee and Board are working

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Remembering Michael G. Dailey

Editor's note: Michael G. Dailey passed away on Thursday, September 16, 2021. He is survived by his wife of 33 years, Marilou; three children, Carrie Weaver (Bruce), Jenna Painter (Jordan) and Amy Askeland (Mike); eight grandchildren, Blaine, Cole, Connor, Kelly, Jonathan, Calla, Rebecca and Tristan; and his two brothers, Richard and Phil. Memorial contributions may be made to the Pennsylvania Pro-Life Federation at paprolife.org.

by Patrick J. Shannon, Esq.

I met Mike Dailey 30 years ago, not long after I moved my office to Murrysville. I didn't know him, and he didn't know me, but he called me to welcome me to the "Murrysville Bar." He invited me to lunch, and we became fast friends. He did not have to reach out like he did, but that was the kind of man he was. We remained friends ever since.

Mike was born and raised in Hillsboro, Va., the son of Mary Lee and Richard Lee Dailey, and one of three brothers. As a child and teen, he helped out on neighboring farms. He was quite active in high school, on the football team, class president in 10th grade, and involved in many clubs throughout.

After graduating from Loudon Valley High School, his intention was to attend the University of North Carolina, but he felt duty-bound to help his country in the war in Vietnam. So, unlike many others who were drafted to serve, Mike enlisted in the U.S. Army right out of high school. He attended basic training at Fort Dix, N.J., and then received advanced training as a radio communications analyst at Fort Devens outside Boston, Mass. He arrived in Saigon in May 1970 and was assigned to Phu Bai

near the DMZ where he spent a full year.

While in Vietnam, he was a cryptanalyst, which is the name given to one who translates or interprets secret writings, as codes and ciphers, for which the key is unknown. Later on in life, he would tell his wife, Marilou, that while in Vietnam, he was

“Mike was a lawyer who was dedicated to his profession. He was hard-working, a man of principle, ethical in his practice. He treated his clients with kindness and respect.”

always guarded by an MP. Of course, she thought that was a good thing, being protected, but Mike insisted that it was not so good. The MP was not there to protect him, but to shoot him in the event the station where he worked was invaded, because he knew too much!

Mike returned home in 1971, and attended Virginia Tech, graduating in three years with a degree in political science. In 1974, he moved to Pittsburgh and attended law school at



Duquesne University. After graduating in 1979, he was admitted to the Bar of the Commonwealth of Pennsylvania and opened his own practice in Murrysville, where he remained for the next 40 years. This was the realization of his lifelong dream of operating his own practice of law.

I am always curious as to how people come to be in the career where they have landed, so I asked his wife, Marilou, how Mike got into this. The answer? He loved Perry Mason as a kid, and he always wanted to be an attorney!

Mike was a lawyer who was dedicated to his profession. He was hard-working, a man of principle, ethical in his practice. He treated his clients with kindness and respect. We often referred clients and cases to each other over the years, and since Mike retired in October 2020, I have had the privilege to work with some of his clients. They love him because he went beyond the legal necessities of their case. He was kind and thoughtful and dedicated to them as people, not just clients. He was more than a lawyer to them; he was a friend. At his funeral

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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, 100 North Maple Avenue, Greensburg, PA 15601-2506, 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.

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Remembering Michael G. Dailey *continued from page 3*

service, many clients came to pay tribute and told how he helped them personally through so many difficulties, not only legally, but with personal issues, just helping in ways which were above and beyond what was required.

But what made him a great lawyer, above and beyond his legal abilities, was that he was a man of God. His faith is what helped him to strive to assist his clients any way he could, his faith in God helped him through many personal difficulties, especially with his difficult battle with throat cancer.

His faith drove his belief in the sanctity of life, as he was a stalwart defender of the unborn. He was counsel for Operation Rescue in the 1980s, helping pro-life protesters who were jailed in Pittsburgh for blocking the abortion clinic. He took part in local life chain events and was a member of the PA Pro-Life Federation. If you would see him in the hallways at the courthouse, you would notice that he always had the lapel pin, two little feet, a representation of the size of a baby's feet at ten weeks. He wanted to remind everyone that this precious little being deserved and needed our protection.

He was active politically and was not averse to sticking up for the principles he held dear. He was a staunch member of the NRA, and a firm believer in the need to protect the freedoms guaranteed to all of us by the Constitution. He

was a student of history, and especially loved the Civil War. Recently, he was becoming more interested in World War II through writings about Winston Churchill.

More than all of his interests and his career, which he loved, he especially loved and was dedicated to his family. He and I would get together over the years, talk about legal issues, cases, and the stuff that attorneys talk about, but the conversation always ended up revolving around his family, his wife, kids, grandkids. He so loved them and cherished his time with them and looked forward to visiting them. He would talk about Marilou and how she had helped him through so many difficult times over the years.

Mike loved his Irish heritage! He and his family attended the Highland Games in Ligonier, loved to go to the Irish Festival, and celebrated St. Patrick's Day by dressing up in green and attending the St. Patrick's Day Parade in Pittsburgh. They would always enjoy a special St. Patrick's Day feast with his family.

In my book, Mike was a great man. He died as he lived, in humility and in gratitude for the life he had been given by his Lord. His faith sustained him through difficult times. He was resigned at the end to whatever the Lord had in store for him. He suffered willingly on the cross of Jesus up to the end.

For myself, I have been blessed to have Mike as a friend. He was my Brother in Christ. He was a gift to us all.

For you Mike, this Irish Blessing:

May the road rise to meet you

May the wind be always at your back

May the sun shine warm upon your face

The rains fall soft upon your fields,

And, until we meet again, may God hold you in the palm of His hand.

Rest in peace, Mike, my Brother, until we meet again. ■



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Michael G. Dailey will be among those remembered at the Westmoreland Bar Association's 59th Annual Memorial Service to be held at the Westmoreland County Courthouse in May 2022. Please plan on joining us to honor our colleagues.

I N M E M O R I A M



Carol Ober, wife of The Hon. William J. Ober, died September 3, 2021. "She had the hands of a knitter, the feet of a dancer, the enthusiasm of a cheerleader, the arms of a mother, and the heart of a patriot," said Judge Ober. "She will be missed."

WBA Capital Campaign Update



by David S. DeRose, Esq.,
and Joyce Novotny-Prettiman,
Esq., Co-Chairs, Capital
Campaign Committee

The WBA is very excited about the wonderful feedback we are receiving as our members are finally able to visit our new headquarters in person at 100 North Maple Avenue in Greensburg. You cannot miss us at the corner of Otterman Street and North Maple Avenue as you travel up the hill to the Courthouse. You cannot beat the technology that is available in our meeting rooms that are equipped for virtual meetings and electronic presentations. The fact that we have a one-level operation which is fully accessible to all our members is a great improvement. You will feel welcome as you enter the building to use our facilities for a CLE, committee meeting, mediation, or deposition—or maybe you just want to stop in for a building tour! Our headquarters is fully open for business and we are ready to serve our members in new and updated ways.

As we transition to our new location, there are, of course, costs associated with

these changes. We are happy to report that the prior building has been sold. However, we still need to lessen the strain this transition has put on our savings which have made it possible for us to finance this move but have been reallocated to meet our current financing needs. With the support of all our members, we are confident that we can make a financial transition that will serve our organization—and especially our young lawyers—for years to come.

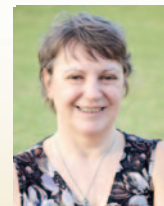
Much in the same way our members supported the efforts of the WBA when we purchased our previous building, our Capital Campaign is underway and already has tremendous support. Our Capital Campaign goal is \$250,000. We had a successful and fun kick-off party in August and continue to work toward our goal. As of the time this article is printed, many of our members support our efforts and have donated over \$201,000 to the campaign. Everyone's contribution is important, so let's join together to support this effort. All gifts will be recognized through publication in *the sidebar*. Additionally, gifts of \$1,000

or more will be memorialized permanently on a plaque at the new building. The special part about our organization is the strength we have when we act together.

Thank you once again to all who have contributed. Anyone who has not sent in a pledge in support of the Capital Campaign will be contacted by a member of our committee and invited to participate before

the end of the year. As co-chairs of the committee, David DeRose and Joyce Novotny-Prettiman, are happy to address any questions.

It is easy to send in your pledge by mail or to use our online link at westbar.org/capitalcampaign. Join your colleagues. Don't be left out of this important effort to show your appreciation for and pride in our Association. ■



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**SEPTEMBER 2021
CIVIL TRIAL TERM**

Of the ten cases on the September 2021 Civil Jury Trial list, three settled, six were continued, and one proceeded to a jury trial.

**SCOTT BREEGLE AND
DONNA BREEGLE, HIS WIFE**

V.

**EXCELA HEALTH
WESTMORELAND REGIONAL
HOSPITAL AND
GREG BISIGNANI, M.D.
NO. 4667 OF 2017**

*Causes of Action: Negligence—
Medical Malpractice—
Loss of Consortium*

This case was a medical malpractice action relating to a metal-on-metal hip replacement surgery performed by Defendant Dr. Greg Bisignani on Plaintiff Scott Breegle in 2004. On September 8, 2015, Mr. Breegle was seen by Dr. Bisignani for pain in his left hip and was given a cortisone injection. Mr. Breegle was seen on September 14, 2015, by Dr. Bisignani's associate, Dr. Ralph Passerelli, for thigh and hip pain and swelling, and he was asked to return to the office in one week. On September 18, 2015, Mr. Breegle presented to the Westmoreland Hospital Emergency Room because of the continued severity of the hip pain. X-ray results, bloodwork, and Doppler testing revealed no indications of infection and he was discharged with pain medication. At a follow-up appointment with Dr. Bisignani on October 8, 2015, Mr. Breegle reported that the pain and swelling had significantly improved.

On November 12, 2015, Mr. Breegle was seen by Dr. Bisignani's physician assistant for an issue with his right knee. He was seen by Dr. Bisignani on February 4, 11, and 18, 2016, with a primary complaint of knee pain. Left leg swelling was observed at these visits. On March 9, 2016, Mr. Breegle was admitted to UPMC Shadyside Hospital with a left hip peri-prosthetic joint infection. Mr. Breegle presented



JURY TRIAL VERDICTS

BY LEEANN PRUSS, ESQ.,
CAITLIN BUMAR, ESQ., AND
LISA GALLOWAY MONZO, ESQ.

to the hospital noting two days of increasing pain and swelling in his left thigh. On March 13, 2016, he underwent a removal of the hip replacement. He was treated for the significant staph infection throughout his body, and he underwent a hemicolectomy and colostomy on March 16, 2016, related to the infection.

Plaintiffs argued at trial that Dr. Bisignani was negligent in failing to diagnose the hip infection despite Mr. Breegle's many visits to his office related to his hip pain. Plaintiffs further argued that Dr. Bisignani ignored the risk of infection posed by metal-on-metal joint replacements and that he did not order the appropriate testing.

Defendants argued that Dr. Bisignani operated at all times consistent with the relative medical standard of care, and that at no time did Mr. Breegle present with symptoms which would lead Dr. Bisignani to suspect or further test for an infection of the left hip based on this standard.

Trial Dates: September 7-13, 2021

Plaintiffs' Counsel: Matthew Doebler, Esq., and Sherrie Painter Cannin, Esq., Pribanic & Pribanic, White Oak

Defendants' Counsel: David M. Chmiel, Esq., Matis Baum O'Connor, Pgh.

Trial Judge: The Hon. Harry F. Smail, Jr.

Result: Verdict in favor of Defendants.

**NOVEMBER 2021
CIVIL TRIAL TERM**

Of the ten cases on the November 2021 Civil Jury Trial list, two settled, five were continued, one was removed for binding arbitration per party agreement, and two proceeded to a jury trial.

**RAYMOND ALINCIC AND
PATRICIA ALINCIC, HIS WIFE**

V.

**MUNICIPAL AUTHORITY OF
WESTMORELAND COUNTY
NO. 5818 OF 2011**

Cause of Action: Eminent Domain

On January 10, 2011, the Municipal Authority of Westmoreland County (MAWC) dug a trench on Cannonball Court in Mount Pleasant Township for the installation of a waterline. Although Plaintiffs owned Cannonball Court, the MAWC was not aware that it was digging on private property and did not file a declaration of taking. As a result, Plaintiffs filed a Petition for the Appointment of a Board of Viewers, arguing that not only did the MAWC place the waterline on their property, but that in doing so they disturbed deposits of limestone and sandstone that had a substantial value. After a view of the property and testimony, the Board of Viewers awarded Plaintiffs \$5,000 plus attorney fees. Plaintiffs appealed.

Plaintiff Raymond Alincic testified to the existence of the limestone and sandstone, arguing that the interlaced stones were required for access to coke ovens on the property. In the past, he had excavated other areas of his property for the purpose of retrieving and selling the stone. By calculating the varied width of Cannonball Court and the average price he previously obtained per ton of stone, Plaintiff testified that the just compensation he was owed for the removed stone was between \$500,000 and \$600,000.

The MAWC acknowledged that they mistakenly installed the waterline under the belief that the property was

owned by the township, but it denied the existence of any limestone or sandstone. The project manager testified that they did not encounter any stone when digging the trench and a geologist hired to examine the property for trial purposes testified that dirt samples taken from Cannonball Court did not support a finding that stone existed prior to the waterline installation.

Trial Dates: November 1-2, 2021

Plaintiff's Counsel: Brian D. Aston, Esq., Gbg.

Defendant's Counsel: Scott E. Avolio, Esq., Avolio Law Group, Gbg.

Trial Judge: The Hon. Chris Scherer

Result: Verdict in favor of the Plaintiff in the amount of \$5,000.

**DANIELLE OSWALD
V.
ANITA TEDESCO
NO. 4450 OF 2017**

Causes of Action: Negligence—
Motor Vehicle

This case stems from a motor vehicle accident which occurred on February 7, 2016. Plaintiff Danielle

Oswald was operating a vehicle on Route 136 in Westmoreland County, where she was temporarily stopped waiting to make a left turn. Defendant Anita Tedesco was traveling in the same lane behind Plaintiff, and was unable to stop her vehicle in time to avoid a rear-end collision with Plaintiff's vehicle. Plaintiff had elected to purchase a limited tort insurance policy at the time of this accident.

On February 10, 2016, Plaintiff presented to Dean's Chiropractic Center, complaining of tingling and pain in her head, neck, and mid-back which was causing difficulty sleeping. Plaintiff was treated at Dean's Chiropractic through June 1, 2016. On November 16, 2016, she was diagnosed by Dr. Michele Holding with cervical radiculopathy involving the bilateral C5-C6 nerve roots. Plaintiff continued having pain and on January 5, 2017, she presented to Dr. Yeshvant Navalgund who diagnosed her with cervical radiculitis. He proposed an epidural block treatment, but Plaintiff declined.

Defendant stipulated to negligence prior to trial. Plaintiff argued at trial that Defendant's negligence was the factual cause of her injuries, and that she suffered non-economic damages in the form of pain and suffering.

Defendant argued that factual cause was still at issue, and that Plaintiff did not suffer a serious impairment of a bodily function as a result of the accident. After the close of evidence, the court entered a directed verdict in favor of Plaintiff on the issue of factual cause. The remaining questions of serious impairment of a bodily function and assessment of damages were presented to the jury.

Trial Dates: November 8-9, 2021

Plaintiff's Counsel: Jessica Thimons, Esq., Simon & Simon, P.C., Pgh.

Defendant's Counsel: Sarah Cobbs, Esq., Law Offices of Kenneth S. O'Neill, Pgh.

Trial Judge: The Hon. Harry F. Smail, Jr.

Result: Verdict in favor of Defendant. ■

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Gamechangers: New Cases on Auto Insurance Coverage

by Joyce Novotny-Prettiman, Esq.

Whether you have a personal injury practice or just want to know more about the auto insurance coverage you should carry, you need to stay updated. Recent case law regarding uninsured (UM) and underinsured (UIM) motorist automobile coverage is a hot topic.

The advice regarding your auto policies: never, ever waive stacked coverage. If you are more interested in the details: read on!

You have most likely heard about the Pennsylvania Supreme Court cases of *Gallagher v. GEICO*, 650 Pa. 600, 201 A.3d 131 (2019) and, more recently, *Donovan v. State Farm*, ___ Pa. ___, 256 A.3d 1145, 2021 WL 3628706 (August 17, 2021). Because this topic is tricky, it is important to read these cases. Also, there are more recent Pennsylvania Superior Court cases that broaden the UM/UIM coverage discussion.

When the Pennsylvania Motor Vehicle Financial Responsibility Law (MVFRL) went into effect, stacked UM and UIM coverages were the default coverages provided by the statute. However, insureds were given the opportunity to waive stacked coverage as outlined in the MVFRL.¹ The choice between stacked coverage and knowingly waiving stacked coverage is key for a coverage analysis.

The unique nature of UM and UIM coverage is that it can provide coverage not only to a named insured and guest passengers as this coverage also extends to relatives of an insured who reside in the insured's household. It does not take long to figure out that multiple policies which may have differing coverages can lead to complicated coverage issues. To add to the mix, various exclusions were written into auto policies by insurance carriers. These exclusions sought to limit an insured's ability to obtain stacked UM and UIM coverage from multiple policies. The two most common exclusions were the "household exclusion" and the "regular use exclusion."

GALLAGHER

In light of the statutory preference for stacking of UM and UIM coverages, the situation that my client, Brian Gallagher, was faced with after he was seriously injured

while on his motorcycle in August 2012 was interesting. Brian Gallagher had purchased insurance from GEICO for both his motorcycle and the other vehicles in his household. After he was injured, the at-fault driver's carrier paid the policy limits. GEICO did pay the UIM insurance on the motorcycle but denied payment of the UIM coverage for the two vehicles insured under a separate GEICO policy.

This situation was a perfect storm when it came to UIM coverage. In January 2019, the Pennsylvania Supreme Court decided *Gallagher v. GEICO*, 650 Pa. 600, 201 A.3d 131 (2019), in favor of Brian Gallagher. The Court held that the household vehicle exclusion violated the MVFRL. The Court discussed that Brian Gallagher never knowingly waived UIM coverage and concluded that the household exclusion acted "as a *de facto* waiver" of stacked UIM motorist coverage which was "impermissible."

After *Gallagher* was decided, the defense bar's position was that *Gallagher* was to be read narrowly. This point of view emphasized that GEICO was the insurance carrier on all policies. However, in a case involving different carriers, the Superior Court has ruled that the rationale of *Gallagher* will apply. For the details, review *Erie Insurance Exchange v.*



Joyce Novotny-Prettiman

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¹ See 75 Pa.C.S.A. Section 1738.

Petrie, 2020 Pa.Super. 268, 242 A.3d 915 (2020), decided on November 18, 2020.

DONOVAN

More recently, the Pennsylvania Supreme Court focused in on a coverage issue involving a waiver of stacked UM and UIM coverage. Corey Donovan was injured in a motorcycle crash in March of 2018. He recovered the tortfeasor's policy limits and the UIM coverage issued on his motorcycle. He then made a claim as a resident relative for the UIM

coverage available on his mother's automobile policy. The United States Court of Appeals for the Third Circuit certified several questions for determination by the Pennsylvania Supreme Court which issued its decision in the case of *Donovan v. State Farm* on August 17, 2021.

The fact pattern in *Donovan* was that Corey's mother, Linda Donovan, had signed a waiver of stacked UIM coverage. Revisiting the Court's analysis of a waiver of stacking on a single-vehicle policy in the case of *Craley v. State Farm*, 586 Pa. 484,

895 A.2d 530 (2006), the fact that there were multiple vehicles on Linda Donovan's policy was pivotal. The statutory waiver language required by the MVFRL, 75 Pa.C.S.A. 1738(d), was again at the heart of the discussion. The Court found the required waiver only informed the insured that intra-policy stacking (stacking between coverages on one policy) was waived. The waiver language was found to be inadequate to properly inform the insured of inter-policy stacking (stacking between multiple policies). After determining the waiver form was invalid as to inter-policy stacking, the Court went on to find that the household vehicle exclusion was invalid under the same rationale as *Gallagher*. Finally, the coordination of benefits issue raised by the carrier was rejected and did not reduce the UIM coverage owed.

We take from *Donovan* that UIM coverage can be collected even if the UIM coverage waiver is signed when a multiple vehicle policy is involved. The UIM waiver is invalid because when multiple vehicles are insured under one policy an uncertainty is created as to what stacked coverage is being waived given the statutory waiver language that states only that UIM coverage under "the policy" of insurance is waived. Further, unlike *Gallagher*, the policy holders in *Donovan* differ as the Court dealt with the interplay of policies purchased by Corey Donovan and Linda Donovan. This decision extends the availability of UIM coverage beyond the facts of *Gallagher*.

POLICY HISTORY IMPACTS STACKED COVERAGE

Auto policies that have been maintained by consumers for many years may have coverage changes throughout the life of the policy that might trigger the need for fresh UM and UIM waivers. If the liability insurance available is insufficient, research into this history is critical given the cases outlined above. If vehicles are added or removed from

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Gamechangers: New Cases on Auto Insurance Coverage

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a policy without new stacking waivers, there may be UM and UIM coverage hidden in the policy history. On September 24, 2021, the Superior Court addressed coverage issues where a vehicle was dropped from a policy in *Franks v. State Farm Mutual Automobile Insurance Company*, 2021 Pa. Super. 192, __ A.3d __, 2021 WL 4347688 (2021). The court held that dropping a vehicle was not a purchase and did not require fresh waivers. An appeal to the Pennsylvania Supreme Court is being sought.

REGULAR USE EXCLUSION

When the household vehicle exclusion fell in *Gallagher*, the question was what other exclusions would be vulnerable to attack. The regular use exclusion has now seen appellate review which addresses the situation where an injury occurs in a work vehicle and the victim seeks UM/UIM coverage from their personal auto policy.

On October 22, 2021, the Pennsylvania Superior Court decided the matter of *Rush v. Erie Insurance*,

221 Pa.Super. 215, __ A.2d __ (2021). In that case, Matthew Rush, who was employed as a police detective for the City of Easton, was driving his police car when he was injured in a November 2015 crash. The parties stipulated that Matthew Rush regularly used the police car for his work duties. After making a claim for the UIM coverage available on the police car, he made a claim for the UIM benefits available to him through policies issued by Erie Insurance for his personal automobiles. This case focuses on Section 1731 of the MVFRL and

notes that the statute does not consider the ownership or frequency of use when addressing UIM coverage. The *Rush* court held that the regular use exclusion “conflicts with the clear and unambiguous language of Section 1731 of the MVFRL and is unenforceable.” Keep this case on your radar for an appeal.

As more cases work their way through the appellate courts, this area will continue to develop. These developments will answer the question about how far *Gallagher* will extend the scope of UM/UIM coverage. ■

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The art of cross-examining is not the art of examining crossly but the gentle task of leading a witness politely into a fatal admission.

*John Mortimer
Rumpole and the Reign of Terror*

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To-Wit: Court Jester

by S. Sponte, Esq.

As my devoted readers know, all several of them, I am no longer actively engaged in the practice of law. The time to call it quits comes to all of us sooner or later, and I say that because the timing varies widely depending on one's luck, one's health, and how much one's intellect and character merits being struck down by lightning sooner rather than later. Whichever though, come it does.

Although I still have my license and still attend the CLEs necessary to maintain it, I nonetheless tell everyone how much I like having time for other things, like playing the banjo and going to doctors and venting this curious passion I have to write humorously about our profession, as this current endeavor hopefully evidences. I also spend a fair amount of time re-watching some of those old and wonderful television shows that

had irretrievably attached themselves to my heart and soul upon first viewing.

First and foremost on that list, as it always will be, is *Rumpole of the Bailey*. Many of you will instantly

“Practicing law not with a rapier of steel but of wit has, for better and worse, been the métier intended me from birth, and in six words, I was really good at it.”

understand its prominence in my affections, for you watched it as well and were as captivated by its cleverness, its authenticity, and its great good wit as I was. There are those of you, of course, who haven't a clue what or whom I'm talking about. Perhaps

this then might be a good moment for you to take your leave and spend the time thus gained for

your grunting, scratching, and trying yet again to hit the spittoon from ten feet away.

Thanks to the miracle of internet streaming, I recently had the inestimable pleasure of spending an entire evening with Horace Rumpole. I hadn't seen him in quite a while and was enthralled to find that he had lost none of his charm, none of his wiles, and none of his wit. As ever, I was smitten by the goings on in his practice, his chambers, and his life. I have no intention of going into any of the details; if they interest you, you can find them for yourself. No, my point here lies altogether elsewhere.

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To-Wit: Court Jester *continued from page 11*

I have always thought I had some Horace in me. I, too, have made people chuckle in a courtroom; I, too, have been as irascible as a boil on one's derriere; and I, too, have caused opposing counsel to turn purple with indignancy; it is, after all, my favorite color. I have even on occasion cross-examined a witness in a manner causing many an otherwise appropriately austere judge to roll on the bench with sweetly inappropriate laughter.

Practicing law not with a rapier of steel but of wit has, for better and worse, been the métier intended me from birth, and in six words, I was really good at it. With such weaponry,

I have bested more than my share of bearded, beady villains, and just as I have always loved that penchant about Horace, I am certain he has always loved that penchant about me as well.

So there we were the other night, just Horace and me. He had once again prevailed with his habitual flair, and as I watched the credits roll, I realized that this episode was over forty years old. In an instant I reasoned out that I had been over forty years younger when I first saw it.

And that's when it coldcocked me; the passage of those forty years has carried off with it almost the entirety of my career. I haven't been in a

courtroom now in a couple of years; I haven't had a new client in longer than that. I haven't drafted one new clever pleading or mocked one single opposing counsel in ages. There was just no escaping it; I am not a lawyer anymore.

I know you're going to think this is hokey because I think it's hokey, but I became a lawyer to fight the good fight. None of this endless propagating of documents that passes for lawyering these days, no transactional fussing and fuming about for me, no, I wanted the courtroom, I wanted bare knuckles, I wanted to chase down justice until I had it squirming and squealing in my grasp, bent entirely to my will, and I wanted to be the someone who stood up for the no ones who had no one else to stand up for them. Not even the bad back that has plagued me for years and prevents me from being on my feet too long has dulled that lust. That I chose wit as my first line of offense was perhaps the only way I knew how to civilize me. Scratch beneath the surface of a clown and you'll find flames and sorrow, that's true, but it does nothing to stop the itch.

I have this recurring dream now. I'm entering a courtroom again, carrying a briefcase in each hand and an accordion file under each arm. The courtroom is packed with an audience that watches with a hush as I sit myself down at counsel's table. I've taken this case only because of the exhortations of referring counsel. He knew I was retired, but he tells me the clients are desperate, that no one else could possibly help them, and that they don't have a dime to pay me.

The judge enters the courtroom and seats himself on the bench. "Are you ready to proceed, Mr. _____?" he asks me.

The pain in my back suddenly disappears, I grope around for my whoopee cushion, and Horace and I stand up. ■

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Westmoreland Revisited

The Chase

Yes, Pittsburgh has its Black and Gold professional sports teams, but only Ligonier has the Rolling Rock Hunt, now approaching its 100th year.

by Daniel J. Ackerman

My practice began on a solitary note in a one-room office on the second floor of the Commercial National Bank Building in Latrobe, one door down



the hall from the offices of my recent preceptor, Calvin Pollins, who passed on to me the occasional odd client as well as the use of the typing skills of his secretary, Margaret Reed.

I must admit that Mrs. Reed was not overburdened by the meager documents and

correspondence that I produced in 1964 and '65, and of the few clients I had, I can't recall any of them, save for the one who never paid my fee; though I do well remember the bank's custodian, Freddy Hedges. Mr. Hedges was a congenial and proper gentleman, I would guess in his 60s, of medium stature, thin and wiry with a weathered face and a shock of grey hair well on its way to being white. Two things were unique about him: his British accent, and his avocation, for Mr. Hedges was the Master of the Hounds of the Rolling Rock Hunt.

Like cricket, foxhunting is a sport few of us understand. There is no scoreboard and few, other than

the participants, can actually call themselves fans. Like all hunting, pleasure is derived from self-satisfaction and camaraderie. It is more than a sporting event, and it is certainly not a contest between rivals; rather it is an equestrian exercise of strategy, which, like chess, tries to anticipate the next move; in this case, that of the fox, who is both fast and clever. The hunt is an event steeped in ritual and in some ways takes on the appearance of a pageant.

In medieval times, horses and hounds were used to pursue deer. In the sixteenth century, English farmers used them to run down foxes as a form

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The Chase *continued from page 13*

of pest control following the extinction of the foxes' only natural predator, the English wolf.

Foxhunting in its more formalized form spread throughout England, Wales, and Ireland, and the first hunting hounds in America arrived in Maryland in 1650. Almost a century later the first organized hunt for a group was hosted in Virginia by Lord Fairfax in 1747. The pastime caught on and both Presidents Washington and Jefferson were the owners of fox hounds and hunters.

Hunting expanded from its original centers in Maryland and Virginia, and was even found in western Pennsylvania prior to the American Revolution, for in those early years, where horses and dogs were found in almost every rural household, foxhunting was within the province of rich and poor alike.

In 1921 Richard King Mellon brought a pack of English-bred

foxhounds to the United States, a purchase which created the foundation for the Rolling Rock Hunt, which will soon be in its one hundredth year. Today there are approximately 20,000 fox hunters in the United States, a number which has basically not changed since Mr. Mellon brought his hounds here.

Large tracts of contiguous open land are needed for a hunt, an area which may have a radius of five or six miles, so the cooperation and good will of farmers is necessary. By the 1950s and '60s the Rolling Rock Hunt had access to 75,000 acres owned by 240 farmers. Such a degree of cooperation will exist only when the *Field* (those participating in the hunt) keep foremost in their minds that they are guests on someone else's property and adhere to well-established norms, such as: staying to the edge of all crops and seeded fields; leaving all gates in the position in which they were found;

reporting any damage to fences, so that they may be promptly repaired; slowing down while passing livestock; and, of course, leaving no litter behind.

The formal foxhunting season

runs from mid-October to March. The word *formal* is significant, for unlike game hunters who may gather informally for a day's outing in the field, foxhunting is a highly structured event which takes pains to observe traditional protocols and courtesies, all of which are supervised through a strict chain of command; the sport has a governing body, the Masters of Foxhounds Association of America, which was founded in 1907.

While for game hunters the eventual goal is a kill, in foxhunting the sport is all in the chase, which in the United States typically ends when the fox "goes to ground," i.e., burrows itself into the earth. Foxes are scarce enough that killing them is counterproductive, and where foxes are nonexistent the sport may be pursued through drag hunting where the rider, horse, and hound traverse a preplanned route, much like a cross-country course, on which an artificial scent from a saturated material is dragged over the route prior to the event.

Those participating in a foxhunting meet have various areas of responsibility and authority. In general terms, they are the following:

- The Master of Foxhounds, who organizes the meet, maintains the kennel and sees to the exercise and well being of the hounds; who may, but not necessarily, ride with them during the meet.

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The first hunting hounds in America arrived in Maryland in 1650. Hunting expanded from its original centers in Maryland and Virginia, and was even found in western Pennsylvania prior to the American Revolution, for in those early years, where horses and dogs were found in almost every rural household, foxhunting was within the province of rich and poor alike.

- The Field Master, who controls the hunt and the Field during the meet.
- The Huntsman, who trains the hounds and controls them in the field.
- The Whippers-In, who assist the Huntsman in keeping the pack together.
- The Field, the participants riding to the hounds.

Participation in the sport of foxhunting is extremely small. Out of every 10,000 people in the country, only six have the desire, equestrian skill, and courage to do it. And indeed, it takes courage to get on the back of a 1,000-pound horse and run it over uneven ground in pursuit of a fox that can run as fast as 31 miles per hour. For many, the pursuit was, or is, a passion. The historian, Barbara Tuchman, writing about England prior to the First World War, describes the pull of the hunt: "To gallop over the downs with hounds and horseman, wrote Wilfrid Scawen Blunt in a sonnet, was to feel 'my horse a thing of wings, myself a God.'"

But even assuming that you have the desire, skill, and courage, you are nowhere near being able to hunt until you master the etiquette and attire necessary to be included in the pageantry of the hunt. The welcoming website of the Rolling Rock Hunt candidly advises that the rules pertaining to etiquette and attire

"can be a bit overwhelming." They are intended, of course, to make the experience as pleasurable as possible.

Rules concerning etiquette are in large part intended to promote the safety of riders, horses, and hounds; for example: Riders must be mounted upon a horse they can control, so as to avoid crowding the horse ahead of it, and held back sufficiently so that the rider may see the hind feet of the preceding horse. Those mounts which have a tendency to kick are required to have a red ribbon tied to their tail, while inexperienced horses should display a green ribbon. Any rider deciding to leave the Field must notify

the Field Master. During the hunt, hounds are always given the right of way and if the hounds pass a rider he or she must turn the horse to face them. Hugh Robards in his book, *Foxhunting*, notes; "The worst crime one can commit in the hunting field is to allow one's horse to kick a hound."

When it comes to jumping a fence or obstacle, if a horse refuses a jump it should be held back until all other horses clear the jump. A rider seeing a hole or other danger should communicate a warning to the rider behind him by announcing "ware (as in beware) hole," and in turn,

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The Chase *continued from page 15*

the warning will be passed down the line. Noise, apart from that of the Huntsman's horn and the singing of the hounds, should be avoided during the hunt, and a member of the Field should avoid speaking to the hounds, lest it confuse them.

Even if you know nothing about the sport, or don't even particularly like horses, one has to admit that foxhunting is a visual treat and often catches the eye of artists. A large part of its visual appeal is the splendid attire of the participants. The Rolling Rock website suggests the following:

"Gentleman formal attire—Plain black hunting jacket/frock coat with three black buttons; white stock tie; canary or tattersall waistcoat; rust, buff or tan breeches; and black boots.

Lady formal attire—Plain black hunting jacket/frock coat or navy jacket with three plain buttons;

white stock tie; canary or tattersall waistcoat; rust, buff, or tan breeches; and black boots. Long hair should be worn neatly in a hairnet."

It should be noted that all participants must wear helmets. Mr. Robards, in addition recommends that there be no pockets on the outside of the coat; spurs of heavy pattern with a moderately short neck and no rowels; heavy wash buff, brown, or black leather gloves; an optional flask and sandwich case; and, if you please, no sunglasses. All of this should make the drafting of next Christmas' wish list much easier.

I would be hiding my eyes if I didn't note that, from my readings, obviously there are those who view foxhunting, or any type of hunting as a cruel pursuit. Without being drawn into debate on that issue, one can acknowledge that the Rolling Rock Hunt is an interesting and ongoing part of

Westmoreland's history. With that said, permit me to conclude on a light note with a quote from Oscar Wilde's 1894 satirical play, *A Woman of No Importance*, in which foxhunting is referred to as "the unspeakable in full pursuit of the uneatable." I think even Mr. Hedges would have laughed at that. ■

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Kings sometimes do some very foolish things. Take Charles II, for example. Perhaps it was just a matter of poor record-keeping, or those around him were rightfully afraid to speak up and point out a royal error, but in 1681, when Charles favored William Penn with a large land grant that included the Wyoming Valley and the site of the future town of Wilkes-Barre, he overlooked the fact that he had given the same vast stretch of land to the Colony of Connecticut in 1662. Such technicalities, an ocean away, did not rise to a level that required further inconvenience to the royal person, so nothing was done about it.

On the ground, his oversight launched the little known Pennamite Wars, three of them in all. The reader may recall the first in 1769-70, another in 1775, and yet a third in 1784. Violence was kept at a minimum and bloodshed limited to skirmishes between the Connecticut settlers in the area and their Pennsylvania counterparts, known as Pennamites.

You may ask though, what makes this of interest to the average reader of *the sidebar*? And that is a very good question.

The town of Wilkes-Barre was founded in 1754 by Connecticut settlers, who in turn formed a new town known as Westmoreland. The Connecticut General Assembly soon applied the town's name to its entire claim in the region, and for a time Westmoreland County, Connecticut, encompassed some 5,000 square miles.¹ The Continental Congress

¹ It's of interest that the original grant to Connecticut went from sea-to-sea between the 41st and 42nd parallels, and was known as the Connecticut Western Reserve. While it surrendered its "Pennsylvania claim," it held fast to its claim beyond Pennsylvania's western boundary until after the Revolutionary War when it ceded the remainder to the federal government in exchange for that government's assumption of the state's debts.

put an end to all that, however, when, in 1782 it nullified Connecticut's claim, ruling in favor of Pennsylvania.

Some Yankees, exhibiting a stubborn nature, pressed on and formed a movement to secede from Pennsylvania advocating a new self-proclaimed state of Westmoreland. Being familiar with the map of Pennsylvania, we can say with certainty that that didn't happen. Rather, the disputed area would emerge in 1786 as Pennsylvania's Luzerne County, renamed in honor of a French soldier and diplomat, Chevalier de la Luzerne.

That said, our county—Pennsylvania's true, and we are pleased to say, only Westmoreland County—really had nothing to do with all of this, as the origin of its name came about through emulation of Westmoreland County in northwest England. ■

Editor's note: A nod of thanks to Jim Antoniono, who upon learning that the Westmoreland Club in Luzerne County was to be the site of a PBA meeting, wondered about the origin of the club's name.

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Who Was That Masked Man?

continued from page 1

suggestion was ignored by a fair segment of mask slackers. The only positive response to this campaign to reduce spitting in public was a significant reduction in the number of trial lawyers still willing to step into a courtroom.

It really isn't clear to the social scientists what's behind this vituperative and seemingly overreactive response to mask mandates. Many theories have been postulated but the only one that seems to have gained any traction is the hypothesis that to many, the freedom to not wear masks is symbolically one of the last great vestiges of the WASPs' control of America. It goes something like this: as the country's population has continued to become more and more diverse over the last one hundred years, ethnically, sexually, religiously and sartorially, the influence of WASPs, for eons the self-appointed arbiters of values, behavior, and country club membership, has shrunk. As a result, many among them and the more weak-minded of their progeny who feel threatened by any kind of shrinkage have risen up in arms, even when the battlefield they choose is often quite unrelated to the underlying source of their angst. As an example, you may recall Charlottesville in 2016 when alt-right groups marched in the streets proclaiming that "Jews will not replace us." They were ostensibly there in a "Unite The Right" rally to protest the removal of a statue of General Robert E. Lee from a city park. So unless the City Council planned to replace that statue with one of Reb Mordecai Ben Chazar, Jews had nothing to do with the reason for the rally.

Further, I can assure you that Jews have no desire to replace the sort of doofuses who march in the streets and shout such hateful, inflammatory, and banal slogans. Nah, we have our sights set much higher than that. ■

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Technology Brings Us Together

continued from page 2

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7. "Provide strong facilitation." It's a great idea for a Committee Chair/meeting host to guide the conversation between remote and in-person participants.
 8. "Give each remote participant an in-room avatar." What Frisch and Greene mean is that remote participants should have the cell phone of an in-room advocate—someone that they can text if they cannot see or hear something in a hybrid meeting.

We are so excited about our new technology and encourage our Committees and all WBA members to utilize this new equipment. The WBA also will be able to offer CLEs to members with the option to attend in-person or remotely.

Thanks to our Building Committee, more exciting uses for our building that benefit our members are on the horizon. The Building Committee is developing policies for submission to the Board that would permit WBA members to reserve the St. Clair Room and kitchen for a non-commercial, non-political event like a retirement party for a co-worker or a baby shower for a family member.

We hope that our members take full advantage of our new technology and will consider these new attendance options for upcoming CLEs and Committee meetings. Thanks to our WBA staff and to Premiere Audio/Video Services for all of their hard work on this project! ■

Judi

Recalling the Summary Jury Trial

Caitlin Bumar's article on mediation in our April issue brings to mind a short-lived, yet effective, effort at settling civil cases that was in use a couple decades ago. The summary jury trial.

All efforts to facilitate settlement, whether among counsel, through mediation, or at a trial court's settlement conference, boil down to an attempt to divine the value of a claim. These mechanisms for encouraging settlement are primarily based upon the opinions of members of the legal community. Opinions which are based upon results in *other people's cases*, formed by prior settlements or jury verdicts. But relying upon prior settlements or verdicts begs the question, for in the end settlements are ultimately driven by the hopes and fears of a verdict that a jury might return *in your case*.

Jury verdicts are unpredictable and always will be since the players in each trial, the facts presented, and the jurors assembled are unique to that action and will never be repeated. Yet, that concept, as simple as it may seem, is difficult for litigants, and sometimes even counsel to grasp. The perceived value of a non-binding summary jury trial is that actual jurors are selected by the parties to hear the evidence and arguments *in the case at hand* and speak to the issue presented.

If you turn to the Pennsylvania Rules of Civil Procedure you will find no reference to such a procedure, nor, of course, would you find there rules pertaining to mediation, since both grow out of agreements between the parties. Summary jury trials

were conducted before the judge to whom the case was assigned and a jury of eight that was instructed to address a single contested issue—in most cases the amount of damages. By agreement, time limits were imposed so the proceeding could be concluded in a single day.

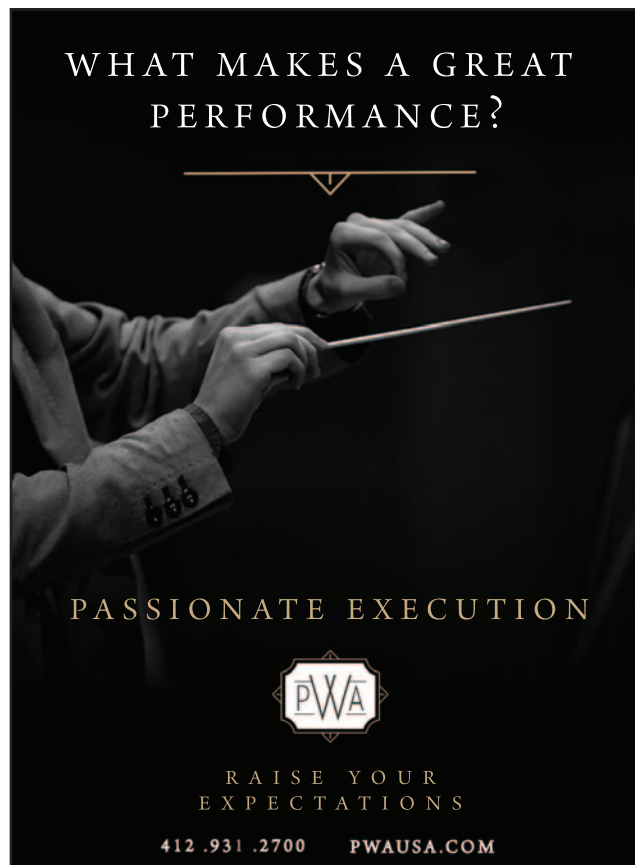
Typically, following jury selection with *voir dire* limited to prior knowledge of the parties and counsel, and a few tailored questions on bias, each party was allotted an hour for the presentation of their modified case which included a mix of testimony, usually that of the plaintiff; documentation, often medical records; and legal arguments for the jury's consideration. Needless to say, it took a good lawyer to prepare and deliver a coherent case within the time allotted.

The trial judge then charged the jury on salient points of law and the

jury retired with an instruction to return when six of them were in agreement. The judge, however, could call them back sooner if deliberations were protracted. When a verdict was returned, the court and counsel then posed questions to the jurors as to what influenced their decision and if there were dissenting jurors, what caused them to disagree. This proved to be the most valuable part of the proceeding, for in open court, the parties and their lawyers were informed of the jury's perspective on the strengths and weaknesses of both the evidence and arguments; but it did not end there.

The agreement of the parties included a provision that prior demands and offers would remain on the table and would not be withdrawn during the next 30 days, during which time the court would schedule a post-trial settlement conference. If the case didn't settle, it would be placed on a subsequent trial list. The general experience was that cases which went through the summary process settled without further court involvement.

Summary jury trials were particularly appreciated by counsel whose clients had taken an uncompromising stance regarding settlement. The prime example being a medical malpractice action against a physician who refused to give consent to any settlement. When a summary jury found damages amounting to six figures, the case was settled for six figures, albeit somewhat less than the jury's number. The result showed that the procedure can be an ideal tool in cases where settlement by traditional means seems unlikely. ■



WHAT MAKES A GREAT
PERFORMANCE?

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CALENDAR OF EVENTS

All committee meetings and activities will be held at the WBA Headquarters or virtually via Zoom. Visit westbar.org for more information about activities and CLE courses, and [register online](#).

For PBI CLE courses, call 1-800-932-4637 or visit pbi.org/westmoreland-county.

DECEMBER

20 [CLE] Video Compliance Seminar, 9 a.m. to 2:30 p.m., 4S 1E

24 Courthouse and WBA offices closed for Christmas

31 Courthouse and WBA offices closed for New Year's Day

JANUARY

10 [CLE] Batten Down the Hatches: Tightening Your Computing Security, WBA Winter Quarterly Meeting, 3:30 to 6 p.m., 2E, In-person and via Zoom

11 Civil Litigation Committee, Noon

12 Real Estate Committee, Noon
Membership Committee, Noon
Board Meeting, 4 p.m.

13 Criminal Law Committee, Noon

17 Courthouse and WBA offices closed for Martin Luther King, Jr., Day

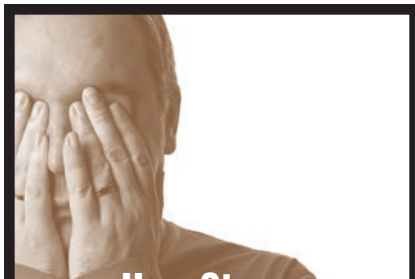
18 Family Law Committee, Noon
Ned J. Nakles American Inn of Court, 5 p.m.

20 Elder Law & Orphans' Court Committees, Noon

21 [PBI CLE] Business and Ethics Basics of Law Firm Management 2022, 9 a.m. to 12:15 p.m., 2S 1E

25 [PBI CLE] The Burned Out Lawyer: Recognition and Prevention Strategies in the Post-COVID World 2022, 9 to 11 a.m., 2E

26 [PBI CLE] Advance Care Planning 2022, 9 a.m. to 12:15 p.m., 2S 1E



How Stress Affects Lawyers

Stress affects all people and all professions. Stress in the legal profession, however, is well-documented. Lawyers work in an adversarial system with demanding schedules and heavy workloads, which may contribute to increased stress levels.

Lawyer assistance programs are available to help lawyers manage stress effectively. Contact Lawyers Concerned for Lawyers for help: www.lclpa.org.

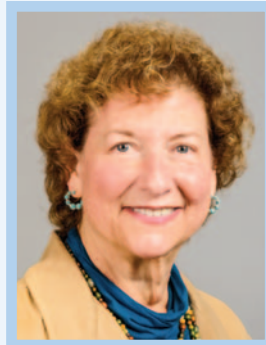
LAC Committee members:
Joyce Novotny-Prettiman, Tim Geary,
Jim Antoniono, Chris Skovira,
Linda Broker, Stuart Horner,
Tom Shaner, Linda Whalen.

WBA WINTER QUARTERLY MEETING

JANUARY 10, 2022

3:30 - 6 PM

HYBRID: IN PERSON AT WBA
HEADQUARTERS* AND VIA ZOOM



Speaker: **Ellen Freedman, CLM**,
Law Practice Management Coordinator,
Pennsylvania Bar Association

Batten Down the Hatches: Tightening Your Computing Security

2 FREE Ethics CLE Credits

Lawyers have ethical responsibilities under several Rules of Professional Conduct to maintain technical competence, safeguard client property and confidentiality of information, and meet regulatory requirements for responding to and reporting breaches. This session details your responsibilities, your risks, prevention steps, and what to do if your firm experiences a breach. (Note: The majority of words spoken will be non-technical, and suitable for luddites!)

**To register, call 724-834-6730,
or visit westbar.org today!**

FREE!
2 Ethics CLE
credits for all
WBA members
who attend.

**Ellen Freedman serves as the Law
Practice Management Coordinator
for the Pennsylvania Bar Association.**

**In that capacity she assists PBA's members with
management issues and decisions on the business
side of their practice, including areas like technology,
financial management and profitability, human resources,
marketing, risk management, setting up a practice and so forth.
PBA members are encouraged to contact Ellen through the
800 "Hot Line" at PBA headquarters, (800-932-0311 x2228) or
through email (lawpractice@pabar.org).**

* Due to COVID-19 travel limitations, Ms. Freedman will be presenting remotely. We are able to accommodate up to 50 members in person at WBA Headquarters to view the seminar; you may also log in via Zoom to view the seminar from your home or office.

Trial Tips in Action 2022



An accredited provider for the PA Board of Continuing Legal Education

Trial Tips in Action (Mock Trial)
Via Zoom at the Westmoreland Bar
Association Headquarters
Dates Available
January 25 & 27
February 1, 3, 8, 17, 22 & 24
March 1

Volunteers are needed to score high schoolers as they demonstrate courtroom proceedings in a Mock Trial. Your participation as a juror in a "Trial Tips In Action" seminar qualifies you for 1.5 free CLE substantive credits per session. Only 12 jurors are needed for each session, so return the registration form as soon as possible.

No walk-ins can be accepted.

WBA Trial Tips in Action Seminar Registration Form -

Fax 724-834-6855 or mail completed form to: WBA, 100 North Maple Avenue, Greensburg PA 15601

Name _____

Email address _____ Telephone _____

For those wishing CLE credit: Attorney I.D.# _____

All sessions are scheduled to begin at **5 pm**, please plan to arrive **15 minutes prior**.
Please choose 1 or more sessions you wish to serve as a juror:

- Tuesday, January 25
- Thursday, January 27
- Tuesday, February 1
- Thursday, February 3
- Tuesday, February 8
- Thursday, February 17
- Tuesday, February 22
- Thursday, February 24
- Tuesday, March 1

Pre-Registration Fees

- WBA Members - FREE
- Non-Members \$30 **per session**

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

Bill my MasterCard VISA DISCOVER for

\$ _____ (Amount).

Card # _____

Expiration Date _____ 3-digit code _____

Credit Card Billing Address _____

PLEASE NOTE:

The total time frame for each session will be approximately 1 hour and 45 minutes.

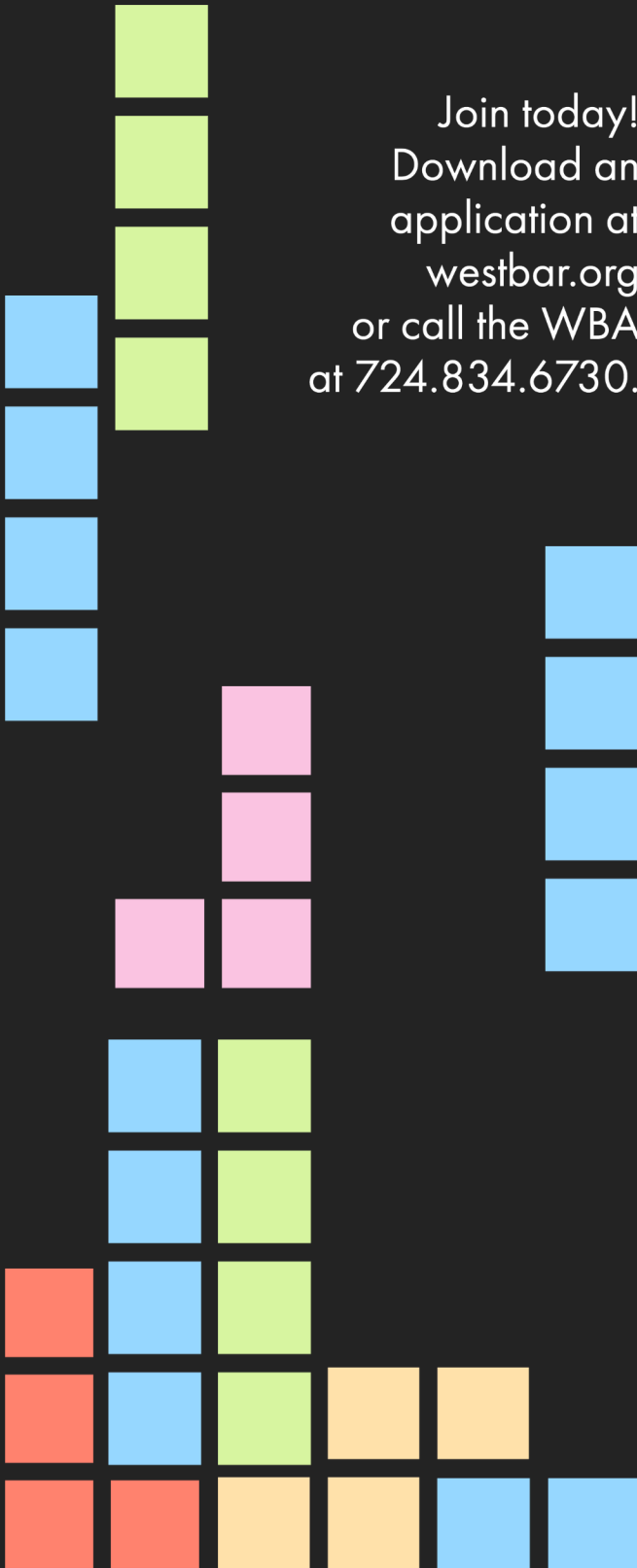
Jurors will receive 1.5 FREE CLE substantive credits for an entire session.

All jurors will report to the WBA Headquarters to take part in this year's Mock Trial.



JOIN THE LAWYER REFERRAL SERVICE IN 2022 AND LET THE PIECES THAT BUILD YOUR PRACTICE FALL INTO PLACE.

Join today!
Download an
application at
westbar.org
or call the WBA
at 724.834.6730.



**\$166,000+ IN FEES EARNED
BY PANEL MEMBERS IN 2021.**

800+ NEW CLIENTS IN 2021.

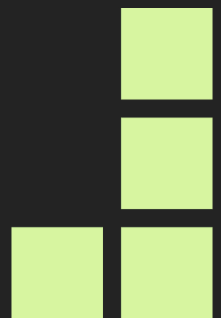
**STILL ONLY \$125/YEAR
REGISTRATION FEE.**

OVER 1,000 CALLS IN 2021.

Let us market your law practice and
grow your business.

- Online referrals at lrs.westbar.org
- On every order of court
- In all row offices
- In all county offices
- In every MDJ office
- In all community libraries

Still just \$125!



Direct the Future of the WBA

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

The position of **Vice President** of the Board and **one** opening on the **Board of Directors** will be among the positions to be filled by election at the annual meeting. Additionally, there is **one** opening on the **Membership Committee**, and **one** opening on the **Building Committee**.

The Nominating Committee—Chair Charles R. Conway, Samuel R. Coury, Terrance C. Ferguson, Cindy

Stine, Scott E. Avolio, Eric E. Bononi, and George C. Miller, Jr.—will meet in February, after the application deadline, to review applications, interview candidates, and prepare a slate of nominees to present to the Board of Directors and the membership of the Westmoreland Bar Association.

Any member interested in running for any of these positions should

submit an application to the Chair of the **Nominating Committee, c/o the WBA**. See the reverse side of this announcement for the application, or download a form at **westbar.org**. Candidates may submit a completed application by first-class mail, fax (724-834-6855), or email (westbar.org@westbar.org), or complete the application online at **westbar.org/nominations**. **The WBA must receive the application by 5 p.m. on Monday, January 31, 2022.**

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



Board

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

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

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

One position is available, for a three-year term. The Director will:

- Attend all board and appropriate committee meetings and special events.

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

Membership

The Membership Committee is the first point of contact that most applicants for membership will have with the WBA. One position for a five-year term is available. The Membership Committee member will:

- Attend monthly committee meetings.

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

Building

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

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

2022-2023

CANDIDATE INFORMATION FORM

Applications must be returned to the Westmoreland Bar Association by January 31, 2022.

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

I wish to run for the position of:

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

Nominating Committee Members: *If you have any questions, please contact them.*

Charles R. Conway, Chair
Samuel R. Coury
Terrance C. Ferguson
Cindy Stine
Scott E. Avolio
Eric E. Bononi
George C. Miller, Jr.

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

Name: _____

Firm: _____

Address: _____

Phone: _____ Year admitted to practice: _____

Law School: _____ Year joined WBA: _____

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

1) _____

2) _____

3) _____

Other professional information (limit of 3):

1) _____

2) _____

3) _____

Signature: _____ Date: _____