



THE WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION'S

# THE ADVOCATE

## THE ADVOCATE

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## WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION

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## PRESIDENT'S MESSAGE

You are a busy attorney and your time is valuable. My goal as your WPTLA President was to make this organization worth your time. I hope you found value from WPTLA during the 2023-2024 year, whether catching up with a colleague at the Comeback Award dinner, chatting with a fellow member during a 5K stroll around North Park lake, or picking up a nugget at a CLE.

I believe active participation in WPTLA events helps elevate our practices for the benefit of both our clients and careers. You get what you put in. The same rule applies for how we manage our clients' cases. At least those aspects we can control.

As my partner likes to say, you can control the process of trial preparation, but you cannot control the outcome. In fact, there are multiple aspects of civil litigation at least partly if not entirely beyond our control. We cannot control the jury pool. We cannot control how a judge will apply the law to the facts. We cannot control how our client will perform at their deposition or trial despite hours of preparation and practice. But time and effort devoted to preparation will steer these things in the direction which leads to a great outcome.

And then there is the law.

We are fortunate extreme tort reform has eluded us in Pennsylvania. It troubles me to think about what plaintiffs' lawyers face in states with laws which cast obstacles in the way of civil justice. Can you imagine how your livelihood would change if the Pennsylvania legislature decided catastrophically injured people can recover

no more than \$250,000 in pain and suffering damages?

Our work is challenging enough with the endless battles we face on multiple fronts. Our energy levels are depleted by skilled defense attorneys, sympathetic defendants, and imperfections which trigger bias against all but the most perfect of humans who come to us for help. We devote long hours to confronting and winning these battles.

But how much do we devote to confronting the battle with interest groups who seek to protect corporate profits from the drain of civil lawsuits, or the legislators who thrive on their support?

The potential threats to our careers go beyond damages caps. New immunities or proof of gross negligence for certain classes of defendants could practically eliminate entire types of injury lawsuits. Ask a medical malpractice attorney to count how many claims they successfully resolved against mental health providers. Then ask how many times they told a grieving family member they could not take on a case involving mental health treatment. On multiple occasions I wanted to tell a potential client "yes, your loved one's death was avoidable but for a mental health system full of holes. I think we can help." Instead, I had to explain the often-insurmountable obstacle to holding mental health providers accountable for the needless deaths of some of the most vulnerable citizens of Pennsylvania.

The viability of our work is inseparable from the legal standards which govern our cases. So long as the make-up of the

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# PRESIDENT'S MESSAGE ... (FROM PAGE 1)

legislature can change, the rules we depend on to help our clients can change.

Just like the outcome at deposition or trial, we cannot control the law. But we can help make sure the process is fair by giving a voice to civil justice in Harrisburg and beyond. I wish we lived in a world where we did not need to worry about corporations and special interest groups wielding power through politics. Yet political ideology drives impactful and often harmful changes to legislative districts, voting rights, and election laws. The door to civil justice for Pennsylvanians of average to modest means will slam shut if we turn our back on candidates who we depend upon to support access to the courtroom.

All of this is a long lead-up to reminding you nothing is sacred in our business. If we do not step-up and support judiciary and legislative candidates who support our clients, we will not have clients. And to sound cliché, the world will be a more dangerous place.

***"[A]ctive participation in WPTLA events helps elevate our practices for the benefit of both our clients and careers."***

All past leaders of WPTLA recognize our duty to support civil justice candidates. A new generation of plaintiffs' lawyers has earned prominence in our legal community. Many new leaders recognize how important this is for our survival and our legal system. Do you?

Please take the time to listen to the new and old leaders among us when they talk about the candidate fighting for a contested seat in Harrisburg or on the bench and why that candidate deserves our support. When it comes time to learn how you and your firm can help, please do not dismiss it as just another call for a political donation. It is a call we need to answer individually and collectively.

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## IT'S TIME TO RENEW YOUR WPTLA MEMBERSHIP!

Fiscal year 2024-2025 officially begins July 1, 2024, but membership renewals are available online now. Go to <https://wptla.org/renew-wptla/> and click the green Member Login button.

From there you'll need to enter your email address and password that you created. If you do not recall that password, or did not create your own password, please click "Forgot Password? Click [here](#)"

If you continue to have problems logging in, please contact the Association office at [admin@wptla.org](mailto:admin@wptla.org) or 412-487-7644.

By now you should have received the below postcard about renewing your membership. Again, please contact the association office with any questions.

In the trial world, where persuasive narratives reign, it is often assumed that the most skilled attorneys are the ones who weave the most compelling stories. While storytelling prowess is undoubtedly crucial, it is but one weapon in a trial attorney's arsenal. To truly have that "it" factor, attorneys need to embrace authenticity as the cornerstone of their advocacy. Genuine authenticity extends beyond the narrative and permeates every aspect of the attorney's courtroom conduct.

Embracing authenticity in the courtroom not only fosters trust and respect but it also reinforces the integrity of the judicial process as a whole. A jury is more likely to relate to an attorney's message and see things from their perspective when jurors sense authenticity.

Being authentic means presenting a case genuinely, without pretense or artifice. This involves three key aspects: being present, being truthful, and being yourself.

### Being Present

Being present involves the attorney actively listening in the courtroom rather than simply focusing on their next point. It is easy to fall victim to this when a witness is on the stand. As the witness is testifying, the attorney may stumble out of the moment by thinking about the evidence that they need to elicit, their written outline, anticipating objections, the judge's rulings, the jury's reactions, or any number of courtroom distractions. If attorneys allow themselves to become consumed by all of these factors, they will fail to be present in the conversation with their witness and may miss valuable opportunities to demonstrate authenticity to the jury.

One way attorneys can be more present is through a willingness to break up with their trial outline. When a witness is testifying and an attorney is actively listening, they can respond with appropriate follow up and genuine emotion. In permitting fluidity within the witness' testimony, the testimony flows naturally and allows a less scripted presentation of the case. For example, in the direct examination of a condition witness sharing fond memories of their sister, a rigid attorney may have an outline with three stories and an expectation that they will be told in A, B, C order. If the witness goes straight from A to C before getting to B, an attorney who is wed to their outline may say something like, "we'll get to that story later" forcing the witness back to the expected order. In contrast, a more present attorney can adapt to the flow of the witness' testimony and come back around to the missed point when it feels natural to do so.

In addition to the trial attorney being present, counsel should also prepare witnesses in a way that prevents them from merely rattling off scripted responses to over rehearsed questions. Witness stories need to remain organic to preserve authenticity. Facts may win cases, but stories win hearts. The trial attorney needs to encourage their clients, and condition witnesses, to tell their stories in their own words, with their own voice. Avoiding pre-packaged or rehearsed stories allows the witness' words to carry more impact, creating invested jurors who believe the client is deserving of a just result.

Likewise, showing empathy and compassion when telling a client's story, questioning witnesses, and making humanizing arguments helps jurors connect to a client's case. Using eye contact or demonstrating a lack of self-seriousness by smiling when something funny is said in the courtroom offers juror's little glimpses into the attorney's personality. These genuine reactions—things that are unique to the attorney—make them relatable to the jury and show that they are present and invested in what is happening in those courtroom moments.

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### Being Truthful

This one should hopefully be an easy one for an officer of the court who owes a duty of candor to the tribunal, but trial attorneys need to take it a step further. Too often attorneys attempt to “hide” bad facts, such as preexisting medical conditions or a client’s checkered past.

If the trial attorney is unable to keep unfavorable evidence out of the case through *motions in limine*, and it is likely coming into the case, they do not want the first time that the jury hears about it to be from the defense. This may mean addressing certain weaknesses in their case head on.

It is important that they are forthcoming about shortfalls. If the attorney knows that information is going to be exposed by the defense regardless, they should be the one to bring it to light instead. Not only will this foster credibility with the jury, but they will also be able to present the “bad” facts on their own terms. As Keith Mitnik would say, they are putting the fact “in context.” For example, if a client is a former alcoholic and the trial attorney knows that this fact is coming into the case, they can bring it up and show that the client is now ten years sober, sponsors others in recovery, and teaches about drugs and alcohol at the local schools- making them a comeback story. However, if the jury hears about the client’s alcoholism for the first time from the defense and the plaintiff’s attorney then tries to restore their client’s reputation afterwards, it is akin to being caught in a lie by omission and then proclaiming, “I was just about to tell you.”

***“Genuine authenticity extends beyond the narrative and permeates every aspect of the attorney’s courtroom conduct.”***

Jurors have an innate ability to sniff out “BS.” They are keen observers and if they feel that the narrator of the case is being less than sincere, it will inevitably guide the jury’s opinions and negatively impact their view of the case.

### Being Yourself

Authenticity requires a deep level of self-awareness. The biggest part of being authentic is to be yourself. As trial attorneys we need to find our own voice before we can be a voice for our clients. While we can learn from other successful trial attorneys, outright

imitation must be avoided. We need to have a clear understanding of our own value system, strengths, and beliefs. Simply emulating our favorite attorney’s style will not make a jury trust or believe us. Instead, successful trial attorneys incorporate the techniques of their inspirers into their own style and present themselves sincerely and genuinely in a way that is natural for them.

For a jury to feel that they can trust the attorney’s recitation of events, they need to see the attorney as relatable and capable of being empathic and vulnerable. These traits foster trust and resonate with jurors on a human level. Thus, guiding them to a verdict that aligns with the natural, human desire to seek justice and fairness.

Successful trial attorneys think about their own stories and experiences and integrate these into their openings and closings, humanizing them and bringing their perspective to the story of the case, while welcoming the jurors to bring their own perspectives as well. This in turn allows the jury to better relate to the client. When an attorney speaks from the heart, their words carry valuable weight and sincerity.

### Conclusion

Authenticity is more than just a buzzword; it is an essential quality for trial attorneys who wish to build credibility and connect with jurors. By embracing authenticity throughout all phases of trial, attorneys can elevate their advocacy by fostering relatability, establishing trustworthiness, and creating a lasting impact on the jurors.

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### NEED CLE CREDITS? WPTLA CAN HELP!

As an approved long distance provider with the PA CLE Board, WPTLA's website offers CLE courses to purchase and view/download for credit. Take your pick from several interesting courses, including the recent *Building Block for Success at Trial* featuring Jude Basile, or Todd Hollis's *Charting the Course for Justice*. We also have the Nov 30 program offered by Synergy Lien Resolutions on ERISA, Medicare and Medicaid Lien Resolution, as well as the April 8 program with local judges.

**Log on now at <https://cle.wptla.org/>**



## Navigating Pre-Trial Narrative Statements in Jury Selection

Allegheny County. The pre-trial narrative statement. What do I do? Does it matter? What's the best approach? It can be a strategic quandary. But I'm here to help.

## Understanding the Role of the Pre-Trial Narrative Statement

Let me start with what the PTNS is not. It's not a shrunk down opening statement.

Unlike your opening statement - a developed presentation aimed at swaying the jury - the PTNS serves a different, more subtle purpose.

It's a tool. The primary purpose of which is to help you select the best jury for your case.

When done right, it primes the venire and makes voir dire more focused and effective. It allows potential jurors to answer each question with your case's context in mind.

## Step-by-Step Guide to an Effective Pre-Trial Narrative Statement

### 1. Start with Your Case Frame

Introduce the venire to your "case frame." Maybe not your Mark Mandel Case Frame - but the basic theme or rule of your case. This helps jurors "get" what the case is about. Negative reactions will occur. That is a good thing. Note those jurors and listen to their answers to voir dire questions.

*Example:* This is a case about a hospital that chose not to follow its own rules.

### 2. Provide the Case Story in a Nutshell

Offer a broad overview of the incident to set the stage. This gives jurors a reference point about what happened without delving into detailed evidence.

*Example:* Smith Hospital had a policy for what to do when a patient had an allergic reaction to CT contrast dye. This case is about a patient who suffered serious injuries due to an allergic reaction to contrast dye given to him at Smith Hospital. On November 15, 2022, John Doe drove himself to Smith Hospital for a routine CT scan of his low back. He left in an ambulance with a severe brain injury.

### 3. Frame the Two Sides

Identify the dispute. The venire needs to know what the fight is about. Summarize your position. Then summarize the defense position.

*Example:* We contend there was plenty of time to treat

Mr. Doe for his allergic reaction so that he would avoid serious injury. The defense claims everything happened so fast there was nothing they could do.

### 4. Preview the Negatives

Highlight the problem facts of your case. Yes, that's scary. Yes, you will hear bad things about your case. That is a good thing. Discussing your weaknesses helps reveal biased jurors. It helps you identify jurors with beliefs unfit for your case.

*Example:* These events occurred in a small community hospital. The hospital will claim they treated Mr. Doe for his allergic reaction in less than three minutes from the start of symptoms. They will claim that sometimes the medicine used to treat allergic reactions doesn't work. We strongly disagree with this and will provide evidence that the time to treatment too much longer and this delay was the reason Mr. Doe suffered brain damage.

### 5. End by Setting Up Voir Dire

The PTNS should lead directly into critical questions for voir dire, aimed at uncovering biases and establishing grounds for potential juror disqualification.

*Example:* Up next, the judge will ask your specific questions about your thoughts and beliefs about different aspects of civil lawsuits. There are no right or wrong answers. The one thing both sides agree on is that we need you to be brutally honest when answering these questions. This matter is of great importance to each side. Not everyone is right for every case. We need to understand how you think and feel so we get the right group of people to decide this case.

In conclusion, while PTNS lack the depth of an official opening statement, it is pivotal in shaping the direction of voir dire. By giving jurors a preview of the frame, story, and key disputes, it enhances your ability to steer jury selection strategically, fostering more honest and specific responses that are invaluable for assembling an impartial jury.

PS - If a judge or staff member pushes you to skip the PTNS, politely push back. A solid PTNS is invaluable to picking a fair jury.

By: *Brendan B. Lupetin, Esq. of*

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On March 21, 2024, WPTLA hosted a fun evening of appetizers, drinks, and golf at Puttshack in the strip district. This was the first event of its kind for WPTLA, and it was a great one!

WPTLA opened this event up to the families of our members. We had 20 members in attendance and 3 family members. Also, we were fortunate to have business partners Synergy, Pain & Spine Specialists, Ford Office Technologies, and LexisNexis present to be able to chat with them in a less formal environment.

The evening kicked off with a short happy hour where attendees socialized and ate a variety of flatbreads, wings, sliders and tots, not to forget the housemade chips and Caesar salad before mini golf. After about an hour, everyone hit the links in groups of 5-6 to play their 18 holes between two of Puttshack's three different 9-hole courses. The Puttshack staff kept the beverages flowing as we played.

This event was a big hit among those who attended. Carmen Nocera from Harry S. Cohen & Associates commented: "This was a great way to connect with colleagues (and their families) in a more informal setting. 10/10 would go again." Personally, I have always been a fan of having a beer and mini golf with friends, and I hope this type of event becomes a regular feature on WPTLA's yearly schedule.

Thanks go out to Laurie Lacher, WPTLA's executive director, for putting together this great event.

If you, like me, would like to see more events like this one in the future, make sure to let one of the board members know. If you couldn't make it this year, keep an eye on next year's schedule and we will see you there!

By: *Drew R. Rummel, Esq. of  
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*Pictured above, from L to R: Board of Governors Member Mitch Dugan, Caron Landay, Past President Dave Landay, President-Elect Katie Killion and President Greg Unatin.*



*Pictured left, from L to R: Larry Chaban and Immediate Past President Erin Rudert.*



*Pictured right, from L to R: Board of Governors Member Brittani Hassen and Taylor Martucci.*



*Pictured left, from L to R: Past President Chris Miller and Business Partner Anthony Mastriano, of Synergy Lien Resolutions.*



*Pictured above, from L to R: Megan Caputo, Past President Bernie Caputo, Secretary Jennifer Webster, Charlie Bowers, Past President and Board of Governors Member Chad Bowers, Board of Governors Member Carmen Nocera, Board of Governors Member Drew Rummel, and Board of Governors Member Matt Logue.*





WPTLA held its Annual Judiciary Dinner at Acrisure Stadium on Friday May 3, 2024. The judiciary dinner is one of WPTLA's signature events. We had excellent attendance this year. The total number in attendance was 175, which included 33 judges, numerous other guests, and members from throughout Western Pennsylvania.

The dinner is an opportunity for WPTLA to honor members of the judiciary who retired or achieved senior status during the preceding calendar year, *i.e.* 2023. The evening began with a cocktail reception featuring passed hors d'oeuvres. Attendees were then treated to a delicious sit down dinner before the program began.

The program kicked off with event co-chairs James Tallman and Shawn Kressley honoring the judges leaving the bench in 2023. The honored judges who were able to attend this year were, as follows: the Hon. Elizabeth Doyle of the Court of Common Pleas of Blair County; the Hon. Rita Donovan Hathaway of the Court of Common Pleas of Westmoreland County; the Hon. Lisa P. Lenihan of the United States District Court for the Western District of Pennsylvania; the Hon. Ilissa Zimmermann of the Court of Common Pleas of Blair County.

The judges' career highlights, along with a few fun facts about the judges, were shared with the audience. The judges were also presented with a set of WPTLA-engraved rocks glasses in appreciation of their years of service on the bench.

Next, Paul Lagnese presented the association's annual Daniel M. Berger Community Service Award. This year's community service award went to Veronica Richards in recognition of her work with The Lighthouse Foundation which operates a food pantry and provides transitional and interim housing for young adults and families. The Lighthouse Foundation received \$2500 and Veronica Richards received a plaque in honor of her work.

WPTLA also presented the 2024 Champion of Justice award. The award was presented by Larry Kelly to John Quinn. The award is given to recognize the work of a lawyer who throughout their career has fought unwaveringly for injured victims and to preserve the rights of all people to have fair access to the court system. John Quinn was presented with a plaque.

Next on the program was the presentation of a check in the amount of \$35,100 to the Steelwheelers which represents the proceeds raised by WPTLA through its annual President's Challenge 5K event at North Park. This was our 23rd President's Challenge. Since the launch of the event, all proceeds have been donated to the Steelwheelers. The grand total donated thus far is more than \$642,000.

The evening's program continued with recognition of the three high school seniors who won the WPTLA scholarship essay contest. This year's winners were Lindsay Bush of Kiski Area High School, Kevin Hutchinson of Baldwin High School, and Leah Kasmer of Greensburg Salem high school. Each received a certificate and a \$2000 scholarship.

The formal program closed with recognition of President Greg Unatin, as his year as President of WPTLA comes to a close. Greg was presented with a plaque in recognition of his service to WPTLA as president.

After the conclusion of the formal program, the evening continued with dessert and conversation. We hope all who attended enjoyed this year's Judiciary Dinner and hope to see you all at next year's dinner.

*By: James T. Tallman, Esq.,  
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*President Greg Unatin presents The Honorable Elizabeth Doyle with a gift.*

*View more photos from the event on page 19.*



## ANNUAL MEMBERSHIP DINNER RECAP

On April 17, 2024, the Western Pennsylvania Trial Lawyers Association met for its annual election dinner for its 2024-2025 Officers, Board of Governors, and LAW PAC Trustee. In what has become a fine tradition, members gathered at Carmody's Grille on Neville Island—owned by longtime WPLTA member Sean Carmody.

The evening began with cocktails at Carmody's second floor bar where members, colleagues, and friends said *cheers* to another successful year of WPLTA events and advocacy. The turnout was strong with representation from firms all over Western Pennsylvania, as well as multiple generations of lawyers. Somehow, eventually, WPLTA executive director, Laurie Lacher, managed to get everyone to move from the bar to their seats for the evening's dinner.

Greg Unatin kicked the dinner off with his final presidential address—leaving the crowd chanting “four more years” despite the one-year term limit. Thereafter, a very efficient and productive election was held, resulting in a unanimous vote to approve all slated candidates.

The food, of course, did not disappoint and conversations gave way to trial anecdotes, civil procedure pop quizzes, and rumor has it one table even made references to non-law related matters (very briefly). As dinner concluded, many stayed for another round of drinks, making the most of the evening and hiding from the April thunderstorm moving its way through Neville Island.

The following Officers, Board of Directors, and LAW PAC Trustee for the 2024-2025 calendar year were each elected by unanimous vote for the fiscal year running July 1 – June 30:

### **Officers:**

President	Katie A. Killion
Immediate Past President	Gregory R. Unatin
President-Elect	James T. Tallman
Vice President	Jennifer L. Webster
Secretary	Shawn D. Kressley
Treasurer	Russell J. Bopp

### **Board of Governors:**

<b>Allegheny County</b>	Margaret M. Cooney	Holly L. Deihl	Mitchell H. Dugan
Gianni Floro	Joseph R. Froetschel	A. Michael Gianantonio	Brittani R. Hassen
Nicholas C. Katko	Matthew T. Logue	Brendan B. Lupetin	Mark E. Milsop
Carmen J. Nocera	E. Richard Ogradowski	Karesa M. Rovnan	Erin K. Rudert
Drew W. Rummel	Jason M. Schiffman	Benjamin W. Schweers	Sara J. Watkins
Timothy G. Wojton	Gina Zumpella		
<b>Beaver County</b>	Charles F. Bowers III	Chad F. McMillen	Curt W. McMillen
<b>Blair County</b>	Nathaniel B. Smith		
<b>Erie County</b>	Craig Murphey		
<b>Indiana County</b>	Bradley E. Holuta	Bryan S. Neiderhiser	
<b>Lawrence County</b>	Gianna M. Kelly		
<b>Mercer County</b>	Richard W. Epstein		
<b>Washington County</b>	Paul A. Tershel		
<b>Westmoreland County</b>	Michael D. Ferguson	Joseph Massaro	
<b>LAW PAC Trustee:</b>	Steven E. (Tim) Riley, Jr.		

By: Benjamin W. Schweers, Esq.

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## NFP Structured Settlements Strategic Solutions For Attorneys Fees

### OBJECTIVES

For close to 30 years, attorneys have been able to defer their hard-earned contingency-based fees using the structured settlement process. This allows attorneys to control the timing of their income and effectively plan for major goals like retirement or education for children while creating tax efficiency even when the timing of settlements or trials are unpredictable.

### SOLUTIONS

Today, structured settlements comprise a variety of products--from the security of guaranteed income from an annuity to a product that uses select low-cost mutual funds or a program that allows you to develop an investment plan using your financial advisor--all allowing for tax-deferral and designing future payments based on your goals and needs.

Whether you want to pay for office overhead, plan for retirement, or create your firm's own fund for future cases--the possibilities are limitless.

Timing is key. If you are interested, you need to contact our firm before a settlement is finalized. We will guide you through the process to ensure that we find the best solutions for you.



### AT A GLANCE

#### Challenges

- Capital Needed for Future Cases
- Erratic Income Flow
- Reactive Tax Planning

#### Benefits

- Tax Deferral
- Payments Timed to Meet Goals
- Variety of Products to Meet Financial Goals and Match Risk Tolerance

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## BY THE RULES

### **IMPORTANT NEW CASE ON SERVICE**

The Pennsylvania Supreme Court has issued a new opinion holding that a plaintiff had failed to diligently and timely effectuate service in *Ferraro v. Patterson*, 1 WAP 2023 (Pa. April 25, 2024).<sup>1</sup>

In *Ferraro*, the underlying cause of action arose out of a slip and fall in a Burger King restaurant in Butler County, Pennsylvania. The fall occurred on August 26, 2018 and the action was timely filed on March 4, 2020. Although the Complaint was timely forwarded to the Butler County Sheriff along with instructions an proper payment service was not effectuated. After the Complaint lapsed, the Plaintiff enlisted a process server to deliver the Complaint to Burger King.<sup>2</sup> Eight months later, the Plaintiff reinstated the Complaint and it was properly served by the Sheriff. Plaintiff's counsel also represented that he assumed that the COVID pandemic resulted in the lack of service.

After service was completed, the Defendant filed an Answer and New Matter asserting a defense of the statute of limitations. A motion for Judgment on the Pleadings was then filed and denied by the trial court. The Defendant was thereafter granted an interlocutory appeal to the Superior Court, which thereafter affirmed the trial court. In affirming, the Superior Court, like the trial court, relied on *McCreesh v. City of Phila.*, 585 Pa. 211, 888 A.2d 664 (2005)<sup>3</sup> and did not find *Gussom v. Teagle*, 665 Pa. 189, 247 A.3d 1046 (2021)<sup>4</sup> dispositive. The lower courts were reversed by the Pennsylvania Supreme Court.

In the Supreme Court, Justice Donohue<sup>5</sup> cited the rules governing service of process as having two purposes

which are investing personal jurisdiction and notice to the Defendant. Hence, the reversal of the Superior Court and the Trial Court.

The practical lessons of this decision are that 1) counsel should not assume that the failure to follow the rules for service will be excused by a lack of prejudice; 2) counsel may not knowingly effectuate service by any means other than what is set forth in Pa. R.C.P. No. 400 *et. seq.*; and 3) if subjected to a motion based upon a lack of service, counsel must present evidence establishing diligence and good faith; and 4) although prior case have included the term diligence in the good faith analysis, it is now clear that the court is going to look for evidence of diligence before finding that the plaintiff acted in good faith.

Justice Donohue thereafter discussed the equivalent rule. This rule provides that service must be accomplished within a period equivalent to the statute of limitations within which to effectuate service. Thereafter, the opinion set forth the ensuing case law which has required the Plaintiff to act in good faith and not stall the proceedings.

Turning to the facts of the case, the Court was skeptical of the Plaintiff's reliance on the COVID epidemic to explain the lack of service, since evidence was not presented as to the effect of COVID on the availability of service after the initial declaration of emergency. The absence of a Motion for Alternative Service due to disfunction following the COVID epidemic. It was also noted that Burger King had presented docket based evidence of service in other cases during the period in question. Ultimately, although it was conceivable that COVID may have impacted counsel's diligence, evidence was not offered. *Ferraro*, at \*52-53.

The Court then discussed the issue of prejudice. However, having found that there was not a good faith effort at service, it could not consider the notice to the Defendant alone was not a substitute for service of process. In this respect, the admission that the use of the process server was not meant to substitute for service of process under the Rules of Civil Procedure. Accordingly, *McCreesh* was distinguished since counsel in *McCreesh* believed that service by certified mail was proper, whereas counsel in *Ferraro* knew that it was not.

It is also important to observe that in a footnote, the Court further stated that a challenge under *Lamp v. Heyman*, 469 Pa. 465, 366 A.2d 882 (1976) is a challenge to service of process and not the statute of limitations. As such, it is properly raised as a preliminary objection

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<sup>1</sup> As of the time of this article, an A.3d citation is not yet available.

<sup>2</sup> Plaintiff's counsel did not claim that the process server effectuated proper service, rather, it was an effort to avoid prejudice to the Defendant. See *Ferraro* at \*7.

<sup>3</sup> In *McCreesh*, the Plaintiff had initially served the Defendant improperly by certified mail. The Pennsylvania Supreme Court subsequently held that "only those claims where plaintiffs have demonstrated an intent to stall the judicial machinery or where plaintiffs' failure to comply with the Rules of Civil Procedure has prejudiced defendant" should be dismissed. *McCreesh*, 888 A.2d at 674.

<sup>4</sup> In *Gussom*, the Supreme Court upheld the dismissal of an action finding that a plaintiff must present evidence of good faith. Absent such evidence, dismissal is proper even if the inaction is not intentional. It should be noted that in *Gussom*, the Plaintiff had not responded to the Preliminary Objections and instead reinstated the Complaint after Preliminary Objections had been filed.

<sup>5</sup> Justice Donohue was joined by Chief Justice Todd and Justices Dougherty and Brobson. Justice Wecht filed a dissent which was joined by Justice Mundy.



## BY THE RULES ... (FROM PAGE 10)

raising issues of fact with a notice to plead an upon an evidentiary record. In *Ferraro* the issue was raised in New Matter to which preliminary objections were not raised.

In his dissenting opinion, Justice Wecht favored the use of a three prong test to address service of process issues. The Three prongs would require the Plaintiff to diligence and show good faith after which the Defendant would be entitled to show prejudice. He further concluded that in initially requesting service, the Plaintiff acted with diligence, that the Plaintiff acted in good faith and the Defendant received notice. Although acknowledging that Ferraro could have acted with more urgency, this results from hindsight; and that more could always be done – but that does not preclude a finding of diligence.

### **CUSTODY OF EXHIBITS**

I had previously reported that the Pennsylvania Rules of Judicial Administration now require each county to adopt a local rule concerning the handling of exhibits. Many counties have now adopted such a rule. The easiest way to summarize this is in a table which I have created below. The table is limited to Western Pennsylvania. It does not include any nuances that apply outside of the civil division, although the reference should be handy to those wishing to check those matters. Please note that this is a basic summary and you should check the applicable local rule yourself. The references listed in the table are to the Pa. Bulletin.

#### **Allegheny County**

**Reference Vol 54, No 10 p 1181**

#### **Summary**

The party is to designate their Custodian at the outset of trial. Court staff shall only be responsible for locking and unlocking the courtroom. A court custodian may be designated by the Court in the case of a *pro se* party. Copies of exhibits must be provided to the trial Judge. The custodian is responsible for filing within 5 days with an index. The court custodian shall confirm the filing. A motion procedure is available for non-compliance.

#### **Armstrong County**

**Reference Vol 54, No 14 p 1813**

#### **Summary**

The custodian shall be the Prothonotary during trial. If the Prothonotary is not present the court reporter shall be the custodian. To be filed with the

Prothonotary after trial.

#### **Beaver County**

**Reference Vol 54, No 9 p 1042 and 1043**

#### **Summary**

Local Rule 223 is rescinded.

The custodian is the stenographer or if no stenographer the judge's staff.

#### **Butler County**

**Reference Vol 54, Vol 16 p 2069**

#### **Summary**

During trial the Court Reporter is the custodian.

After trial the Court Reporter retains non documentary exhibits.

There is a transfer of possession form to be used.

A court may order the furnishing of an exhibit book one week prior to trial with a witness list.

#### **Crawford County**

**Reference Vol 54, No 7 p 716**

#### **Summary**

The Prothonotary is the Custodian and if not present, the judge, who shall forward to the Prothonotary for filing. The proponent may be ordered to serve as custodian of non-documentary evidence.

#### **Erie County**

**Reference Vol 54, No 9 p 1046**

#### **Summary**

The proponent is the custodian and responsible for filing.

#### **Fayette County**

**Reference Vol 54, No 20 p 2755**

#### **Summary**

The Court reporter is the custodian.

#### **Greene County**

**Reference Vol 54, No 10 p 1186**

#### **Summary**

The docketing office is the custodian.

#### **Indiana County**

**Reference Vol 5498 p 1048**

#### **Summary**

The Court reporter is the custodian

## BY THE RULES ... (FROM PAGE 11)

### **Mercer County**

**Reference Vol 54, No 11 p 1312**

#### **Summary**

The court reporter or Court monitor shall be the custodian.

### **Somerset County**

**Reference Vol 54, No 15 p 1950**

#### **Summary**

During the proceeding the court reporter is the custodian; certain physical exhibits maintained by custodian.

USB to be used for digital exhibits. Confidential items need a confidential document form.

### **Washington County**

**Reference Vol 54, No 13 p 1665**

#### **Summary**

Court staff, not court reporter, during trial; after trial the proponent is the custodian. A C-Track case management system may store exhibits.

### **Westmoreland County**

**Reference Vol 54, No 13 p 1666**

#### **Summary**

A "Court Assistant-Monitor" shall be the custodian and file with the Prothonotary after trial.

Almost all counties require oversized exhibits to be reduced to 8½ by 11, including photos. Separate provisions are provided for physical non-documentary exhibits. Special provisions also exist for weapons, drugs, dangerous materials and the like for all counties. Some require prior clearance by the Sheriff's office. Digital Exhibits are generally by USB. Most counties have index forms that are to be used.

### **INDIANA COUNTY**

Indiana County has adopted new case management rules set forth in local rule 212.7. The rule provides that the court may order one or more conferences. The civil management system shall be triggered by the filing of a complaint and responsive pleading and appearance. The system includes two tracks, expedited and standard.

Expedited cases will receive an initial case management order which will include a timeline for discovery and a case management conference after the conclusion of fact discovery.

Standard track cases will have a case management within 60 days of the triggering event. The filing of preliminary objections will result in a delay or rescission of the order. A second or further case management conferences may follow. A provision is included that would allow the case to be ordered to mediation, arbitration or other alternative dispute resolution.

The foregoing is merely a nutshell summary. Litigants should consult the rule itself when having a matter in Indiana County.

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## THE ADVOCATE



### ARTICLE DEADLINES and PUBLICATION DATES VOLUME 37, 2024-2025

Vol 37	ARTICLE DEADLINE DATE	TARGETED PUBLICATION
Fall 2024	Sep 6	Sep 20
Winter 2025	Dec 6	Dec 20
Spring 2025	Feb 21	Mar 7
Summer 2025	May 16	May 30

*The Editor of The Advocate is always open to and looking for substantive articles. Please send ideas and content to [er@ainsmanlevine.com](mailto:er@ainsmanlevine.com)*

## COMP CORNER

### New Commonwealth Court Decision on Attorneys Fees and Medical Bills

The Commonwealth Court has recently ruled in *Williams v. City of Philadelphia* (WCAB) 277 C.D. 2023 regarding the applicability of the attorneys fees as applied to medical benefits under the Workers' Compensation Act.

Patrice Williams was originally injured March 4, 2021 when she suffered an injury to her right hand and arm. Various petitions proceeded including a claim and a review petition. Ultimately, some petitions were determined in the claimant's favor and some were not. Appeals were filed regarding a review petition which had failed and the refusal of the workers' compensation judge to order a fee on medical bills consistent with the fee agreement executed between claimant and counsel.

**"[I]f practitioners in the legal arena adopt such fee agreements on a wide basis seeking 20% of future medical expenses, will claimants have difficulty obtaining treatment?"**

The workers' compensation judge had denied applying the 20% fee to future medical expenses. The Workers' Compensation Appeal Board sustained that finding that because the future medical expenses were unknown and speculative the claimant could not agree to such expenses. Reaching this conclusion the Appeal Board distinguished previous appellate case law in *Neves v. Workers' Compensation Appeal Board* (American Airlines) 232 A.3d 996 (Pa. Cmwlth. 2020). In the *Neves* case the full panel of the Commonwealth Court concluded that a 20% fee on a prior hospital bill was appropriate. The appeal followed to the Commonwealth Court. The issue the Court stated was "whether the Board erred in affirming the WCJ's denial of an attorneys fees based on claimant's medical bills."

The Commonwealth Court conducted an analysis of the *Neves* case and Section 442 of the Workers' Compensation Act. Note that in *Neves* it had said:

"We hold that Section 422 does not distinguish between the type of compensation awarded; does not require an inquiry into the reasonableness of a 20% fee agreement and does not make the amount and degree of difficulty the work performed by the attorney relevant. A 20% counsel fee is per se reasonable."

In the instant case the Court goes on to say "the rule from *Neves* is broad and not limited to only those medical expenses which have been actually incurred and billed at the time of the hearing before a workers' compensation

judge." The Court noted that the fee agreement between the claimant and counsel in the instant case contained language where the claimant acknowledged that the counsel fee would be calculated on both indemnity and medical benefits and that a provider may be able to pursue the amount deducted payable as an attorney fee to the claimant's counsel. Furthermore, in the case of below, there was testimony from the claimant demonstrating her understanding of the risks involved in the counsel fee applying to medical bills.

Finally, the Court went on to interpret Section 306 (F.1)(7) of the Act which prohibits medical providers from obtaining any portion of the medical expenses from the claimant. The Court felt that the language of the Act went beyond mere balance billing preclusions. The Court stated:

"...it prohibits a provider from billing a claimant for **any** costs related to care provided under the Act and **any** amounts reflecting the difference between the provider's charge and the amount paid." (emphasis in original.)

Therefore, Commonwealth Court has concluded that a properly written fee agreement can provide for 20% of medical bills incurred prior to testimony before a judge and after a successful decision. The testimony before the workers' compensation judge highlighted in the case would give practitioners a sound footing for paragraphs to include in the fee agreement.

Query: if practitioners in the legal arena adopt such fee agreements on a wide basis seeking 20% of future medical expenses, will claimants have difficulty obtaining treatment? Many of the doctors who practice in the areas that lead to treating workers' comp cases are now employed by hospitals. If hospitals see a decline in revenue because of the adoption of these types of fee agreements will doctors begin to stop treating workers' compensation claimants?

Some practitioners who have not sold their practices to hospitals have banded together in larger associations. Will the larger orthopedic associations refuse to take workers' compensation claimants as patients? Will the hospital associations and orthopedic societies seek redress of the situation through the legislature?

Does the *Williams* case open a new line of revenue or a can of worms?

By: Tom Baumann, Esq. of

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## HOT OFF THE WIRE

### ***Major v. Cruz and State Farm, 2024 Pa. Super. 26 (Pa. Super. Feb. 13, 2024)***

#### ***Superior Court upholds a household exclusion clause where the insureds waived stacking on both applicable policies.***

Plaintiff was injured in a rear-end motor vehicle collision, which caused personal injuries. At the time of the crash, Plaintiff was the permissive driver of a Kia Sportage that belonged to her mother. The tortfeasor had \$15,000.00 in liability insurance, which was accepted in settlement of Plaintiff's 3rd party claim. Plaintiff also pursued UIM claims against State Farm, which insured the Sportage driven at the time of the crash and Plaintiff's Kia Forte under separate policies. Plaintiff's mother was the named insured on the Sportage policy, which provided \$15,000.00 per person in UIM coverage and had waived stacking of UIM benefits. Plaintiff and her mother were the named insureds on a policy covering the Forte, which provided \$100,000.00 in UIM benefits per person. Plaintiff's mother was the first named insured on the Forte policy and she had executed a stacking waiver for UIM benefits.

State Farm paid the Plaintiff \$15,000.00 in UIM benefits under the Sportage policy and refused any additional payment. The trial court agreed with State Farm's position and granted its Motion for Judgment on the Pleadings.

On appeal, Plaintiff argued that the household exclusion was not valid and that, at the very least, she should be allowed to recover \$85,000.00 of that UIM coverage under a coordination of benefits provision contained in the Sportage policy. The Superior Court reviewed the recent caselaw from the Pennsylvania Supreme Court on the household exclusion. In summary, the Court explained that the validity and enforceability of household exclusions depends on the circumstances of each case, as explained in *Gallagher, Donovan, and Mione*.

In the case *sub judice*, the Superior Court concluded that because there were valid stacking waivers in place for both potentially applicable policies, the rationale of the *Donovan* and *Gallagher* cases did not apply. As such, the Forte policy's household exclusion barred coverage of Plaintiff's UIM claim because the injury occurred while she, a named insured on the Forte policy, was driving a car owned by her mother (a resident relative) but not insured under the Forte policy. The Court also found that because only the Sportage policy applied to Plaintiff's injury, the coordination of benefits clause in the Sportage policy had no effect on the outcome of the UIM coverage issue.

The Court noted that in *Donovan* and *Gallagher* the household exclusion was unfairly depriving the insured of the stacked coverage that they elected and paid for with

higher premiums. By contrast, the insureds in the present case had waived stacking and also chosen to carry lower UIM coverage on the Sportage policy than the Forte policy. Thus, the Forte policy's household exclusion did not deprive the insureds of any coverage they paid for, but rather prevented them from receiving more UIM coverage than was contracted for under the Sportage policy.

The Superior Court affirmed the trial court's order granting judgment on the pleadings to State Farm.

### ***James v. Wal-Mart Distribution Center, 2024 PA Super 17 (Pa. Super. Ct. February 2, 2024)***

#### ***Superior Court reverses trial court's decision to grant a transfer of venue based on forum non conveniens.***

Plaintiff sought review of a Philadelphia County trial court's order transferring venue of a slip-and-fall case from Philadelphia County to Lehigh County based on *forum non conveniens*.

Plaintiff was injured while working for a contractor at a Walmart Distribution Center, when she slipped and fell on a slippery substance, sustaining injuries to her back and neck that required surgery and extensive medical care. The accident occurred in Bethlehem PA which is in both Lehigh and Northampton counties. Plaintiff received all her medical care in Lehigh County. Plaintiff filed a negligence action in the Philadelphia Court of Common Pleas against a number of Wal-Mart entities and individual employees.

Subsequently the Wal-Mart defendants filed a motion to transfer venue based on *forum non conveniens*, arguing that Plaintiff's choice of forum was oppressive because the case had no connection to Philadelphia County and litigating there would create a hardship for some of their witnesses. Attached to their motion were affidavits from the distribution center manager and the corporate representative of Walmart. The affidavits asserted that the four-hour round-trip commute to Philadelphia from their homes in Northampton County was oppressive because it would severely affect their personal lives and ability to perform their jobs. Most notably, the affidavits did not identify the Defendants' theory of defense nor evidence that these two witnesses would provide that was key to its defense.

The parties engaged in discovery that focused on the venue issue including deposition testimony from the Wal-Mart distribution center manager and the corporate representative. Ultimately the trial court granted the motion based on *forum non conveniens* and transferred the case to Lehigh County. The basis for the trial court's decision was a belief that the

hardships mentioned by the Wal-Mart witnesses were well beyond mere inconvenience.

On appeal, the Superior Court found that the trial court erred when it made its hardship analysis without even knowing Wal-Mart's defense and whether the distribution center manager or the Wal-Mart representative would even testify at trial. The record established that Defendants had failed to provide a general statement identifying their defense and establishing that either witness would offer testimony that was relevant and necessary to that defense. The Superior Court concluded that without any information about the witness' testimony, the trial court could not weigh the hardship factors and find that the defendant met its burden of establishing a hardship.

Since the record did not indicate that the Defendants satisfied the requirement of identifying their defenses and the witnesses who support the defenses, the trial court abused its discretion in failing to hold Defendants to the proper burden. Consequently, the court erred in overriding the deference which it was obligated to provide to Plaintiff's choice of forum. The trial court's order was reversed and the case was ordered to stay in Philadelphia county.

***Lamarr-Murphy v. Del. Co. Mem. Hosp., No. 1846 EDA 2021 (Pa. Super. Dec. 20, 2023)***

***Superior Court addresses the law on liability for ambulance crew members.***

In this case the Superior Court was asked to review a trial court's denial of several post-trial motions involving, *inter alia*, the liability of emergency medical service providers.

On the day in question, an ambulance crew was dispatched to the home of Plaintiff's decedent after a call came in that he had passed out. The decedent was assessed at his home by the crew and then taken to the hospital. On the way, the decedent went into cardiac arrest and the ambulance was stopped so that the crew could administer life saving measures. A total of 40 minutes passed between the time the ambulance left the decedent's home and the time it arrived at the hospital, where the decedent was subsequently pronounced dead. The decedent was 39 years of age at the time of his death with a medical history of gout, blood clots, and deep vein thrombosis.

Plaintiffs claimed the EMS crew was negligent in how they handled their interaction with the decedent at his home and during the transport to the hospital. In addition to having issues with the medical treatment provided to the decedent by the EMS crew, the Plaintiffs also asserted that the ambulance crew was negligent for taking a different route to the hospital than the family would have

taken and for stopping at red lights and stop signs.

The ambulance company defendants asserted immunity from liability pursuant to the Pennsylvania Emergency Response Provider and Bystander Good Samaritan Civil Immunity Act (Good Samaritan Act). The trial court ruled that the Act applied and as a result Plaintiffs would have to prove gross negligence in order to prevail on their claims at trial. A mixed verdict was returned where the decedent was ultimately found 51% responsible for his own harm. Plaintiffs filed post-trial motions regarding a number of issues including immunity under the Good Samaritan Act.

The Superior Court held that the ambulance crew did fall under the protections and immunity of the Good Samaritan Act. The Court found that the exclusion in the emergency responder statute for "hospital emergency facilities" was meant to exclude on-site emergency rooms, not hospital ambulance services, from liability. The Court also found that an emergency provider is granted immunity under the statute unless that individual's actions amount to intentional harm or gross negligence with respect to the injured party.

***"[U]nder certain circumstances, a defendant may file a notice of removal [to federal court] more than thirty days after the receipt of the initial pleading."***

***Calpin v. The ADT Security Services, Inc., No. 3:2023-CV-1418-JKM (M.D.Pa. Feb. 20, 2024)***

***Federal District Court remands case to state court based on untimely removal.***

This case arose out of the alleged termination of the plaintiff's employment while he pursued worker's compensation benefits. Plaintiff originally filed suit in the Lackawanna County Court of Common Pleas. Nearly ten months after the filing of the Complaint, the defendant removed the matter to federal court.

Plaintiff filed a motion to remand based on the untimeliness of the removal. Defendant asserted that the removal was timely based upon when information was obtained during discovery regarding the amount in controversy.

The Court noted that a notice of removal must be filed within thirty days after service of the initial pleading setting forth the claim for relief upon which the action is based. Here, there was no dispute that the defendant filed its notice of removal beyond the thirty-day period. The Court recognized that under

*(Continued on Page 16)*

## HOT OFF THE WIRE ... FROM PAGE 15

certain circumstances, a defendant may file a notice of removal more than thirty days after the receipt of the initial pleading. However, the Court rejected the defendant's contention that they did not know that the amount in controversy exceeded \$75,000 until information was secured from the plaintiff's responses to written discovery.

The Court found the Plaintiff's Complaint placed the Defendant on notice that the amount in controversy exceeded \$75,000. Specifically, the Complaint detailed the underlying economic damages claims and also asserted a punitive damages claim. The Court found that the amounts regarding Plaintiff's alleged ongoing wage loss claim could be readily calculated and evaluated by the defendant based upon the information provided. The Court also found that, on the basis of Plaintiff's alleged punitive damages claims alone, the Defendant had the ability and sufficient knowledge to remove the case to federal court.

Based on the foregoing, the Court found that the defendant's notice of removal was procedurally defective. Accordingly, the Court issued an order remanding the case to the Lackawanna County Court of Common Pleas.

By: *Shawn D. Kressley, Esq. of*

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### Upcoming Events in 2024-2025

Sep 2024 - Legislative Meet & Greet

Oct 2024 - President's Challenge 5K Run/Walk/Wheel

Nov 2024 - Comeback Award Dinner

Dec 2024 - CLE

Jan 2025 - Junior Member Meet & Greet

Feb 2025 - CLE

Apr 2025 - Membership Dinner Meeting

May 2025 - Annual Judiciary Dinner

May 2025 - 32<sup>nd</sup> Ethics & Golf Outing

and a new Community Service Event.

Look for details in your inboxes/mailboxes.

## SCHOLARSHIP ESSAY CONTEST RECAP

The 2024 Western Pennsylvania Trial Lawyer's Association annual high school essay contest was conducted in April 2024. The winners were recognized at the Judiciary Dinner in May. This year's essay topic dealt with a freedom of speech issue involving the issuance of a trademark involving famous or political individuals without their consent.

Out of over 250 high school districts found within WPTLA's region, 101 schools requested packets of information. Twenty responses were received from the packets that were sent to the school districts. From those twenty, three winners were selected. They are as follows: Lindsay Bush, Kiski Area High School; Kevin Hutchinson, Baldwin High School; and Lea Kasmer, Greensburg Salem High School. It should be noted that Lindsay Bush was the first ever participant from Kiski Area High School and their first win. Kevin Hutchinson recorded Baldwin High School's first win in the essay contest.

The Committee members who scored this year's essays found that this year was especially difficult to score as all of the essays submitted were of high quality and very well written. Congratulations to all of the winners and I wish to particularly thank all of the members of the committee for their hard work throughout the year and in grading the essays. A special thank you to our executive director, Laurie Lacher, for her dedicated and hard work in making the scholarship essay contest a success.

By: *Charles F. Bowers III, Esq. of*

*Bowers Fawcett & Hurst, LLC*

*chadbowers@brf-law.com*



*Dear Western PA Trial Lawyers members,*

*Thank you so much for the opportunity to apply to your scholarship. I appreciate the educational value your application holds and am honored to have been chosen as a recipient. I am forever thankful that you have helped fund my education. Thank you!!!*

*Sincerely,  
Lea Kasmer*



# ETHICS & GOLF RECAP

The 31st Annual Western Pennsylvania Trial Lawyers Ethics and Golf Outing was held at the beautiful Shannopin Country Club on Friday, May 24, 2024. Forty-seven contestants had a scrumptious breakfast followed by an hour of stimulating discussion by the panelists of former Disciplinary Board Member, Larry Kelly and current Hearing Officer, Lauren Nichols.

After the seminar, the participants played the beautiful Shannopin Country Club on a sun-soaked morning and afternoon.

The winning team with a score of 59 was John Perry, Mike Calder, Trevor Perry, and Bill Goodman. Coming in at one stroke behind, the family team of the Clan Kelly: Larry Kelly, Gianna Kelly, Michael Gielarowski and Lauren Kelly Gielarowski.

What a great way to start off Memorial Day weekend and we look forward to the 32nd Annual Western Pennsylvania Trial Lawyers Ethics and Golf Seminar already scheduled for Friday, May 23, 2025 at Shannopin Country Club.

Hope to see you there.

By: John P. Goodrich, Esq. of  
Jack Goodrich & Associates, P.C  
jack@goodrichpc.com



Pictured above L, from L to R: Pete Giglione, Ryan Duty, Corey Young and Mike Collis



Above R: Mike Megrey, Jack Bailey, Alex Stephenson and Dave Huntley

Below L: Jim Crosby, Terry Ging, Mike Zyra and Mark Joseph

Below R: Richard Levine, Bill Kenny, Brandon Keller and Dan Sammel



Pictured above on L, from L to R: Dick Kelly, Mark Aletto and John Linkosky

Above on R: Barry Palkovitz, Bruce Gelman and Patrick Haughey

Below on L: Larry Kelly, Gianna Kelly, Lauren Kelly Gielarowski and Mike Gielarowski

Below on R: Drew Leger, Tim Wojton, Joe Massaro and Matt Scanlon





April 8, 2024

Laurie Lacher, Executive Director  
909 Mount Royal Boulevard, Suite 102  
Pittsburgh, PA 15223

Dear Laurie,

At its heart, Landmark College is about changing lives, so it is with deep gratitude that we receive your gift of support, from the Officers, Board of Governors, and members of the Western Pennsylvania Trial Lawyers Association, in memory of Stephen Moschetta, a Landmark College alumnus, Trustee, and beloved member of the Landmark College Community.



In making this gift to Landmark, you are supporting the current and future Landmark community, and you are honoring Stephen in a very special way. Gifts such as yours directly support our students. Whether through our academic advising model, academic support centers, athletics programming, or scholarships, your memorial gift has an impact on the lives of our students.

On behalf of Landmark College faculty, staff and students, thank you.

With heartfelt gratitude,

*Carol Nardino*  
Carol Nardino  
Senior Director of Institutional Advancement  
and Special Assistant to the President  
cnardino@landmark.edu

*What a wonderful way  
to honor Steve's memory.  
Many thanks.*

**Tax note:**

Landmark College is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code (EIN 22-2586208). No goods or services have been provided in return for your gift to Landmark College of \$100.00

*Dear Trial Lawyers,*

*Thank you for your thoughtful donation to Landmark College in memory of Steve.*

*Your contribution will help to develop academic & social skills in their students.*

*The Family of Stephen P. Moschetta*

19 River Road South • Putney, Vermont 05346  
(802) 387-6700 • fax (802) 387-6880  
[www.landmark.edu](http://www.landmark.edu)





**Photos from the Annual Judiciary Dinner held May 3, 2024 at Acrisure Stadium in Pittsburgh.**



*In #1, from L to R: Tim Riley, Jill & Craig Murphey*

*In #2: The Honorable Lisa Lenihan, Gianni Floro, Mark Millsop*

*In #3: Roni & Carl Schiffman*

*In #4: Armond Leonelli and Business Partner Bill Goodman*

*In #5: President Greg Unatin*

*In #6: Kathy & Joe Massaro and Business Partner Dave Kassekert*



*In #7: Co-Chairs James Tallman and Shawn Kressley*

*In #8: Community Service Awardee Veronica Richards and Shawn Kressley*

*In #9: Paul Lagnese and Steve Barth*

*In #10: Kim Quinn, Champion of Justice Awardee John Quinn, and Larry Kelly*

*In #11: Chris & Karan Miller, Kelli Kressley, Jennifer Fisher and Eric Purchase*





**TRIVIA CONTEST****Enter for a Chance to Win a \$100 Visa Gift Card****Trivia Question #40****What is the only still-fortified city in North America?**

Please submit all responses to Laurie at [admin@wptla.org](mailto:admin@wptla.org) with "Trivia Question" in the subject line. Responses must be received by August 1, 2024. Prize for this contest is a \$100 Visa gift card. Winner will be drawn the following week. The correct answer to Trivia Question #40 will be published in the next edition of The Advocate.

Rules:

- Members only!
- One entry per member, per contest
- Members must be current on their dues for the entry to count
- E-mail responses must be submitted to [admin@wptla.org](mailto:admin@wptla.org) and be received by the date specified in the issue (each issue will include a deadline)
- Winner will be randomly drawn from all entries and winner will be notified by e-mail regarding delivery of prize
- Prize may change, at the discretion of the Executive Board and will be announced in each issue
- All entries will be considered if submitting member's dues are current (i.e., you don't have to get the question correct to win – e-mail a response even if you aren't sure of your answer or have no clue!)
- There is no limit to the number of times you can win.Keep entering!

The correct answer to each trivia question will be published in the subsequent issue of The Advocate along with the name of the winner of the contest. If you have any questions about the contest, please contact Erin Rudert – [er@ainsmanlevine.com](mailto:er@ainsmanlevine.com).

Answer to Trivia Question #39 –**How many times has there been a February 30?**

**Answer: At least twice.**

"Sweden added the date to its 1712 calendar following an earlier calendar error; the Soviet Union observed February 30 in 1930 and 1931 in an attempt to cut seven-day weeks into five-day weeks and to introduce 30-day months for every working month."<https://www.timeanddate.com/date/february-30.html>

Congratulations to Bianca DiNardo, of Goodrich & Geist, on being the winner of Contest #39. Bianca will receive a \$100 Visa gift card.

Remember, you can't win if you don't enter!!

**Above The Bar Marketing**

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PITTSBURGH, PA 15223-1030



## *Through the Grapevine....*

In the last issue of this publication, we misspelled **Sara Watkins's** name when identifying her on p. 26. Our apologies to Sara!

Congratulations to **Past President Elizabeth Chiappetta** for a successful year as PAJ President.

Congratulations to **President's Club Member Tom Baumann**, the recipient of PAJ's Milton D. Rosenberg Award.

Congratulations to **Honorary Member Lisa Marie Benzie**, the recipient of PAJ's President's Award.

Best wishes to **Past President and President's Club Member Larry Kelly** on his upcoming year as PAJ President.

Our deepest condolences to the friends, family and co-workers of **Jason Shipp**, who passed in March, and of **President's Club Member Alan Perer**, who passed in May

Our condolences and heartfelt respect to the friends, family and co-workers on the recent passing of **Cyril Wecht**.