THE WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION'S

THE ADVOCATE

THE ADVOCATE

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WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION

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THE ART OF PERSUASION

Self-Inflicted Wounds – A Multi-part Series On How We Shoot Ourselves in the Foot

Setting aside the randomness and luck factors of the particular jury pool you draw for your trial, as well as the basic facts of your case, I have come to believe that most plaintiff jury trials are lost due to self-inflicted wounds.

There are numerous ways we hoist ourselves (and our clients) on our own petard.

One way I know I have sabotaged my own case and helped snatch defect from the jaws of victory is by believing that I had to win the case, that the case would be won or lost by my performance, in short thinking I was more important than I really am.

Thinking you must win the case with your own virtuoso performance is a recipe for disaster. The reasons are several-fold.

First, by believing that *you* must conjure David Copperfield-esque performance to win, you place undue stress and pressure on yourself. Personally, this additional pressure affects my sleep, makes me tense, and leaves me unfocused for the task at hand. Jury trials are stressful enough! The planning, the witness preparation, the scheduling SNAFUs, the last-minute antics of defense counsel, jury selection, preparing your opening, the judge who wants you to settle... isn't that enough?

Second, by being the center of attention at trial, you steal the real power and energy of your case, of your client's story, the morality play that a jury might actually care about. Instead of being the center of attention, try thinking of yourself as a playwright and director. You are there to show the jury a story they will care to invest in. You do this through storytelling, imagery and witness' testimony, and the most important pieces of evidence. The simple truth is that the trial is not about you the trial lawyer. It is about your client's story versus the defense story, the conflict the stories create, and the resolution only the jury can write out.

> ***"Be the director of the play, behind the curtain orchestrating an interesting and important morality play that a jury will be happy . . . to see."***

Third, respectfully, you probably are not all that interesting. In fact, and I hate to break it to you, but your "amazingness" may actually agitate, annoy, or distract the jury from the important stuff. You don't want the jury passing the time by counting the number of times you self-aggrandize. And believe me, I am as guilty as anyone of thinking I am more important than I am. So much so that when I regularly start thinking about how *I* must win the case with my performances, I force myself to chant in my brain "Dude, get over yourself!" It is the hyper-rare trial lawyer, who has such

(Continued on Page 3)

PRESIDENT'S MESSAGE

Let's Get to the Point

Too many lawyers think they can thrive in isolation. For a trial lawyer, this is a recipe for stagnation.

WPTLA brings local trial lawyers together to learn and forge lasting relationships. If nothing else, our organization is a circle of positive influence for lawyers who do this work in our community.

Our jobs are hard. A sense of isolation can set in when we are wrapped-up in our cases or law firm. Make a point to set the time aside for your professional growth in the no stress environment WPTLA can provide.

We are fortunate to live in a city and work in a profession where people embrace colleagues and cultivate new friendships. Our organization has the same small-town mentality. Yes, we practice in competing law firms. But there is enough business to go around. In the long run, we all gain more by collaborating, socializing, and lifting each other above our literal trials and tribulations.

Our events this year will entice your mind and your taste buds. We will gather at hot spots like the Wooden Angel and a local microbrewery. We will jollily gab about the work we do - all the war stories, inside tips, latest scoops, and yes, tasty gossip, too.

"Personal and professional growth should be deliberate. Experience alone is not enough."

Here is a sample of the things you might learn by getting or staying involved with WPTLA this year:

1. How to conduct cheap and easy jury research through focus groups;

2. The latest developments for conducting civil trials in Allegheny County and Beaver County from the perspective of Judges Ignelzi and Ross;

3. The latest tricks and stall-tactics from the defense, and how to neutralize their distractions;

4. Trial war stories which provide valuable insight on local judges and juror behavior;

5. Powerful arguments for pain and suffering damages;

6. The identify of the expert who can put a bow on your liability or damages case;

7. How your colleagues are keeping costs down at trial without sacrificing the quality of exhibits and trial presentation;

8: The fastest trial lawyer in this year's President's Challenge 5K.

And throughout the year, our members gain new and unusual experiences inside and outside the courtroom. Soon, a new listserv will connect us for the precise purpose of saving members the time and effort of reinventing the wheel. If you have a case keeping you up at night because of some sticky issue, chances are a fellow member can solve the issue for you with a single Email.

It sounds cliché, but we are stronger together. A just, meaningful verdict for one plaintiffs' trial firm on Grant Street is good for every firm on Grant Street, First Avenue, and the suburbs too. Whether from our office chairs or face to face at the Duquesne Club, our members exchange ideas which can help you maximize settlements and verdicts, and indirectly benefit us all.

So, sign-up for as many events as you can. And one last word of advice I received from former President Carl Schiffman: when you're at a dinner, happy hour, or other live event, make a point to introduce yourself to people you don't know. Sit at a table with unfamiliar faces. Chances are, you'll see happy faces, excited to meet and learn from somebody new. Do this whether you are flying solo at the event or with a handful of colleagues from your firm. Leave your social anxiety at home.

Personal and professional growth should be deliberate. Experience alone is not enough. Come out and join us, de-stress, and invigorate your desire to do the work you do.

By: Gregory R. Unatin, Esq. of

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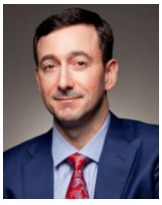

THE ART OF PERSUASION ... from Page 1

charisma and is so captivating that they leave the jury mesmerized. Think Joe Jamail, Mark Lanier, Brian Panish. While *you,* dear reader, may be the exception to the rule, and there are a couple of you out there, you should assume (take solace!) that you are not especially fascinating to a jury. Just be yourself. Be low key. Be the director of the play, behind the curtain orchestrating an interesting and important morality play that a jury will be happy it was forced to see. You will sleep better, you will feel better, and you will do better.

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

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JOIN US!!!

President's Challenge 5K Run/Walk/Wheel

Sat, Oct 7, 2023

at the North Park Boathouse

Benefits the Steelwheelers

How can you participate?

1. **Register for the event**. Online registration is available through RunSignup.com. While there, you can also purchase 50/50 tickets.
2. **Donate prizes**. Whether for the purchased raffle tickets on site, or the free raffle for all participants, we can always use donations! Contact our executive Director with your details.
3. **Purchase 50/50 tickets**. Again this year, we are holding an online 50/50 raffle. Purchase your tickets. Sales are available through Sunday, 10/8. Winning name will be drawn on Monday, Oct 9.

INSIDE THIS ISSUE

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A good financial advisor is like a good caddie—trusted for guidance and advice

When you want professional financial advice, you need the experience and undivided focus of a financial advisor who has your best interests at heart. And that's the kind of dependable guidance you receive from RBC Wealth Management.

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23-VK-00684 (03/23)

BY THE RULES

INACTIVE CASES

The Pennsylvania Supreme Court has amended Rule of Civil Procedure 230.2. This is the rule providing for the Court to list cases for termination which have not had docket activity for two years or more. The most significant aspect of this amendment is the change to (h) which now provides that upon a filing of a Notice to Proceed the court shall schedule the case for a status conference. The rule previously stated that the Court may schedule the matter for a status conference. Hence, the scheduling of a status conference has become mandatory.

Another noteworthy change is that a note indicating that if the notice is returned by the postal service, the prothonotary shall check the disciplinary board's website has been eliminated and replaced with a comment to similar effect. This highlights the importance of attorneys keeping their address current with the disciplinary board.

***GREENBERG* DECISION CLEARS WAY FOR IMPLEMENTATION OF RULE AGAINST HARASSMENT AND DISCRIMINATION**

In 2020, the Pennsylvania Supreme Court amended the Pennsylvania Rules of Professional Conduct to include Rule 8.4(g) which provides that is professional misconduct:

> **(g)** in the practice of law, knowingly engage in conduct constituting harassment or discrimination based upon race, sex, gender identity or expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, or socioeconomic status. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude advice or advocacy consistent with these Rules.

Pending the effective date of this rule, an attorney who regularly gives CLE presentations on the First Amendment and offensive speech filed a declaratory judgment action and sought an injunction against the rule's enforcement. The Defendants moved to dismiss the action on the basis that the attorney lacked standing. The District Court denied the motion and issued a preliminary injunction. On appeal, the Third Circuit Court of Appeals reversed in *Greenberg v. Lehocky*, No. 22-1733, 2023 U.S. App. LEXIS 22737 (3d Cir. Aug. 29, 2023).[1] In an opinion by Judge Sirica held that the attorney in fact lacked standing.

The posture and context of the Greenberg decision may prove important to understanding how the rule will be interpreted. Of particular note was a declaration submitted in support of summary judgment by Thomas Farrell, Chief Disciplinary counsel which provided:

> the Office of Disciplinary Counsel "interprets Rule 8.4(g) as encompassing only conduct which targets individuals by harassing or discriminating against an identifiable person," and "does not interpret Rule 8.4(g) as prohibiting general discussions of case law or 'controversial' positions or ideas."

Greenberg v. Lehocky, No. 22-1733, 2023 U.S. App. LEXIS 22737, at *14 (3d Cir. Aug. 29, 2023).

The Third Circuit further noted that rule only applies to knowing and intentional harassment or discrimination.

Interestingly, Judge Ambro authored a concurring opinion in which he suggested the possibility that the rule could be amended to further avoid potential conflict with the First Amendment.

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[1] *It is not yet clear whether or not certiorari will be sought from the US Supreme Court.*

By: Mark E Milsop, Esq., of

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BEAVER DINNER & CLE RECAP

43 members, 8 business partners and 4 judges gathered on Mon, Sept 11 at the famed Wooden Angel Restaurant in Beaver to share cocktails and good food, and socialize with their peers and friends. And a credit of CLE didn't hurt!

Thanks to Judge Phil Ignelzi of Allegheny County Court of Common Pleas and Judge Jim Ross of Beaver County Court of Common Pleas for the interesting and enlightening hour on trials and verdicts in Allegheny and Beaver Counties.

COMP CORNER

Defendant Seeks Assessment of Counsel Fees in Act 111 Appeal

Recently, the Commonwealth Court declined to assess counsel fees pursuant to Pennsylvania Rule of Appellate Procedure (PA.R.A.P.) 2744 in *Bouges v. City of Philadelphia* Commonwealth Court of Pennsylvania No. 565 C.D. 2022. In *Bouges* the Claimant suffered a work injury on May 18, 2010 resulting in persistent right ankle swelling, sprain/strain with synovitis and traumatic lymphedema. Claimant received weekly benefits of $845 based on an average weekly wage of $1,560.06. The date of the injury preceded the enactment of Act 111 reinstating the use of Impairment Rating Evaluations.

On January 7, 2021 an IRE was performed by Dr. Daisy Rodriguez who concluded a 7% whole person impairment rating under the AMA guides the evaluation of permanent impairment, sixth edition. Subsequently, the Employer filed a petition to convert the Claimant's benefits from total disability to partial disability. The Judge determined that Claimant was at maximum medical improvement based on Dr. Rodriguez's testimony and adopted the finding of a 7% whole person impairment. Benefits were therefore converted to partial disability and the 500 weeks commenced to run.

The Claimant appealed to the Workers' Compensation Appeal Board arguing two things: First, that Act 111 did not apply to her injury as it occurred before the effective date thereof and second, that the IRE did not constitute substantial evidence supporting the award .The Workers' Compensation Appeal Board affirmed and the appeal to the Commonwealth Court followed.

Claimant made the argument that the retroactive application of Act 111 violated due process and the Pennsylvania Constitution Remedies Clause. The Court followed the long line of cases it had decided regarding Act 111 previously in concluding that Claimant's due process arguments fail. The Claimant also argued that the description of injury had previously been judicially determined and that the IRE physician failed to utilize the correct description of the injury in achieving the impairment rating. The Court concluded that the impairment rating physician adequately explained the inconsistencies in the report and concluded that the rating was valid based on all of the evidence. It then supported the decision of the Judge and the Board.

The Court also dealt with the Defendant Employer's request that attorney's fees be assessed based on the Pennsylvania Rules of Appellate Procedure. Employer had argued that the law was well settled regarding the applicability of Act 111 to injuries occurring before the Act's effective date. It sought the imposition of attorney's fees because of the settled nature of the law. In determining not to impose such fees, the Court noted that the Claimant challenged the findings of the Workers' Compensation Judge regarding the sufficiency of testimony of the IRE physician. It pointed to "certain apparent inconsistencies and mistakes" in the doctor's testimony and reports which it concluded served as a valid basis for appeal. Therefore, no fees were to be awarded.

Although *Bouges* represents an unpublished opinion, it does extend some caution to practitioners pursuing Act 111 appeals. If the only basis for the appeal is Act 111, there appears to be a risk for the assessment of attorney's fees under the Rules of Appellate Procedure. Practitioners may be well advised to pursue additional theories to the Commonwealth Court in addition to the challenge to Act 111 on a constitutional basis.

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THE ADVOCATE

ARTICLE DEADLINES and PUBLICATION DATES VOLUME 36, 2023-2024

Vol 36	ARTICLE DEADLINE DATE	TARGETED PUBLICATION
Winter 2024	Dec 1	Dec 15
Spring 2024	Feb 23	Mar 8
Summer 2024	May 17	May 31

The Editor of The Advocate is always open to and looking for substantive articles. Please send ideas and content to er@ainsmanlevine.com

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Hot Off the Wire (Fall 2023)

Bert Company v. Turk et. al. Nos. 13 WAP 2022, 14 WAP 2022 (*Pa. July 19, 2023)*

Pennsylvania Supreme Court addresses the appropriate standard for determining punitive damage ratios against multiple defendants.

In this appeal by permission, the Supreme Court considered the constitutionality of an award of punitive damages by a civil jury in Pennsylvania. More specifically, the Court addressed the appropriate ratio calculation measuring the relationship between the amount of punitive damages awarded against multiple defendants who are joint tortfeasors and the compensatory damages awarded.

The case arose out of a business dispute. Bert Company claimed that the First National defendants had stolen employees from them in an attempt to harm their business. Bert Company initially sued several of its ex-employees, alleging breaches of their non-solicitation/non-disclosure agreements. Bert Company then filed an amended complaint, adding the First National defendants and seeking compensatory and punitive damages for (1) breach of contract and fiduciary duties and theft of trade secrets against its ex-employees; (2) unfair competition against First National; and (3) misappropriation of trade secrets, tortious interference with contract, and civil conspiracy.

The case proceeded to trial where a jury entered a single compensatory damages award in the amount of $250,000.00 against four (4) Defendants who were jointly and severally liable for the award. The jury also entered a punitive damages award in the total amount of $2.8 million dollars. The total punitive damages award was split between four (4) Defendants in varying amounts based on their conduct. This yielded individual ratios for punitive to compensatory damages of 1.8 to 1; 2 to 1; 2 to 1; and 6 to 1 against the four (4) Defendants.

On appeal to the Superior Court, the Defendants argued that the ratio for punitive to compensatory damages awarded in multiple-defendant cases should be calculated on a per-judgment basis. This approach divides the total of punitive damages assessed against the defendants by the total of compensatory damages. In this case that ratio was 11.2 to 1, which the Defendants argued was unconstitutional. This position was rejected by the Superior Court, who affirmed the trial court's calculation using a per-defendant approach to determine the ratios.

On review, the Supreme Court affirmed the Superior Court. The Supreme Court also officially adopted the per-defendant approach to calculate the ratio, where the punitive damages award against each Defendant is the numerator and the compensatory damages award is the denominator. The Court concluded that this methodology reflects the impact of the punitive verdict on each of the Defendants as required under the Due Process Clause. The Court additionally concluded that, under the facts and circumstances of this case, it was appropriate to consider the potential harm that was likely to occur from the concerted conduct of the Defendants when determining whether the measure of punishment was both reasonable and proportionate.

Chilutti v. Uber Technologies, Inc., No. 1023 EDA 2021 (Pa. Super. July 19, 2023 *en banc*)

En banc Superior Court holds a mandatory arbitration agreement between Uber and one of its passengers to be invalid.

In this personal injury action, the Plaintiff, Shannon Chilutti, who uses a wheelchair for mobility assistance, used the Uber "app" to obtain a ride home from a medical appointment. While in transit, the driver of the Uber made an aggressive left-hand turn, causing Plaintiff to fall out of her wheelchair and strike her head, rendering her unconscious. Plaintiff, Keith Chilutti, the husband of Shannon, was riding in the vehicle and observed his wife fall and strike her head.

Plaintiffs filed a complaint against Uber seeking to recover for injuries sustained in this incident. In response, Uber filed a petition to compel arbitration in which they argued the terms and conditions of the Uber "app" required Plaintiffs to arbitrate their injury claims. The trial court granted the petition to compel arbitration and an appeal to the Superior Court followed.

On October 12, 2022, a three-judge panel of the Superior Court published an opinion reversing the trial court's order granting Uber's motion to compel arbitration. *See Chilutti v. Uber Techs., Inc.,*2022 PA Super 172 (Pa. Super. Oct. 12, 2022) (previously reported in HOTW Winter of 2022). Uber subsequently filed an application for re-argument *en banc*. The Superior Court granted Uber's request and withdrew the panel's October 12, 2022, decision.

The *en banc* Superior Court concluded that Uber's website and "app" did not provide reasonably

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HOT OFF THE WIRE ... FROM PAGE 9

conspicuous notice of the terms to which Plaintiffs were bound. As such, the case turned on whether Plaintiffs took any action that unambiguously manifested their assent to be bound by the terms and conditions.

The Court determined that because the constitutional right to a jury trial should be afforded the greatest protection, the following burden of proof was necessary to demonstrate a party's unambiguous manifestation of assent to arbitration: (1) explicitly stating on the registration websites and "app" screens that a consumer is waiving a right to a jury trial when they agree to the company's "terms and conditions," and the registration process cannot be completed until the consumer is fully informed of that waiver; and (2) when the agreements are available for viewing after a user has clicked on the hyperlink, the waiver should not be hidden in the "terms and conditions" provision but should appear at the top of the first page in bold, capitalized text.

In this case, the Plaintiffs did not click on or access the terms and conditions before their registration process was completed. Furthermore, the definition of arbitration was not contained in the agreement and there was no link to the definition. As such, the Superior Court found that Plaintiffs were not informed in an explicit and upfront manner that they were giving up a constitutional right to seek damages through a jury trial proceeding.

Accordingly, the Superior Court held that the trial court had erred in granting Uber's petition to compel arbitration. As there was not evidence of a valid agreement to arbitrate, Plaintiffs were entitled to invoke their constitutional right to a jury trial. The trial court's Order granting Uber's Petition to Compel Arbitration was reversed.

"The law is explicit that 'qualification as a foreign corporation' shall permit state courts to 'exercise general personal jurisdiction' over a registered foreign corporation, just as they can over domestic corporations."

Turnpaugh Chiropractic Health & Wellness Cr., P.C. v. Erie Ins. Exch., No. 1448 MDA 2021 (Pa. Super. June 8, 2023)

Superior Court holds that Sections 1716 and 1798 of the PA MVFRL do not support an award of attorney's fees in peer review cases

In May of 2015, Cynthia Zimmerman was injured in a motor vehicle crash where she sustained injury. At the time of the crash, Ms. Zimmerman had an auto policy with Erie, which carried $50,000.00 in first party medical benefits. As Ms. Zimmerman's treatment progressed, Erie did not fully pay invoices from Turnpaugh Chiropractic ("Turnpaugh"). Two years after Ms. Zimmerman's accident, Erie referred her case to peer review to challenge its obligation to pay for continued treatment. Dr. Richard Adams, D.C., the peer reviewer contracted by Erie, concluded that chiropractic care beyond August 31, 2017, was neither reasonable nor necessary. Thus, Erie refused to pay for treatment beyond that date.

Turnpaugh filed a complaint against Erie raising two claims. First, Turnpaugh alleged Erie improperly repriced and did not fully pay invoices that predated August 31, 2017, which it had billed at "Act 6" rates. Second, Turnpaugh asked the trial court to compel Erie to pay for invoices beyond August 31, 2017, as Ms. Zimmerman's continued treatment was reasonable and necessary. Turnpaugh also requested attorneys' fees pursuant to §1716 and §1798 of the MVFRL based on its allegation that Erie improperly referred the bills to peer review without reasonable circumstance that would cause a prudent person to implement peer review.

Following a bench trial, the trial court issued an opinion and order finding in favor of Turnpaugh on both counts. The trial court determined the treatment rendered to Ms. Zimmerman from the date of the accident through September 26, 2018, was necessary and reasonable. The trial court also awarded attorneys' fees to Turnpaugh under §1716 and §1798 based on its finding that Erie made an improper decision to send Ms. Zimmerman's treatment to peer review instead of paying the benefits when due.

Erie appealed several issues to the Superior Court, including whether an award of attorney's fees to Turnpaugh was appropriate under the peer review process set forth in the MVFRL. At the outset, the Superior Court recognized Turnpaugh's criticism of the current statutory framework, which allows insurers to utilize the peer review process to defend every claim, even for care that is clearly reasonable and necessary, merely to attempt to avoid payment of benefits due under a policy. The Court also recognized that providers may be discouraged from pursuing court action to seek reimbursement for treatment from insurers due to high litigation costs.

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Nevertheless, the Court held that it could not uphold the trial court's award of attorneys' fees in this case absent express statutory authorization. Following an analysis of §1716 and §1798, the Court found that the plain language did not provide for attorneys' fees. Thus, the Superior Court held that the trial court erred in awarding Turnpaugh attorneys' fees as there is no statutory authorization to do so when an insurer invokes the peer review process to challenge its obligation to pay for an insured's treatment.

Mallory v. Norfolk Southern Railway Co, ___ U.S.___ (June 27, 2023)

United States Supreme Court upholds statute allowing state courts to hear any lawsuit against out-of-state companies who register to conduct business in PA

Robert Mallory worked for Norfolk Southern as a freight-car mechanic for 20 years in Ohio and Virginia. After he left the company, Mr. Mallory moved to Pennsylvania for a period before eventually returning to Virginia. He was subsequently diagnosed with cancer, which he claimed was due to his work at Norfolk Southern. Mr. Mallory sued his former employer under the Federal Employers' Liability Act. Suit was filed in Pennsylvania state court.

Norfolk Southern resisted the suit on the basis that a Pennsylvania court's exercise of personal jurisdiction over it would offend the Due Process Clause. Norfolk Southern noted that when the complaint was filed, Mr. Mallory resided in Virginia, and the complaint alleged the exposure to carcinogens occurred in Ohio and Virginia.

In response, Mr. Mallory pointed to Norfolk Southern's presence in Pennsylvania, noting that it manages over 2,000 miles of track, operates 11 rail yards, and runs 3 locomotive repair shops in the state. Norfolk Southern had also registered to do business in Pennsylvania based upon its systematic and continues presence. Pennsylvania law requires out-of-state companies that register to do business in Pennsylvania to agree to appear in its courts on "any cause of action" against them. *See* 42 Pa. C.S. §5301(a)(2)(i)(b). As such, Mr. Mallory argued that Norfolk Southern had consented to suit in Pennsylvania on any claims, which naturally included his.

The Pennsylvania Supreme Court sided with Norfolk Southern finding that the law requiring out-of-state entities to answer any suits against them in the Commonwealth in exchange for preferred status as a registered foreign corporation violated the Due Process Clause.

However, in a 4-1-4 plurality decision, the United States Supreme Court reversed that decision finding the case was controlled by its prior decision in *Pennsylvania Fire Ins. Co. of Philadelphia v. Gold Issue Mining & Milling Co.* The Supreme Court found that §5301(a) provides that an out-of-state corporation may not do business in Pennsylvania until it registers with the Department of State. The law is explicit that "qualification as a foreign corporation" shall permit state courts to "exercise general personal jurisdiction" over a registered foreign corporation, just as they can over domestic corporations. Norfolk Southern had complied with this law since 1998, when it registered to do business in Pennsylvania. Norfolk Southern received a "Certificate of Authority" which conferred on Norfolk Southern both the benefits and burdens shared by domestic corporations, including amenability to suit in state court on any claim.

The Supreme Court's previous decision in *Pennsylvania Fire* held that lawsuits premised on these types of jurisdictional statutes do not deny a defendant due process of law. The fact that Mr. Mallory no longer lived in Pennsylvania and that his cause of action did not accrue in that state were inconsequential. The Court found that the Supreme Court of Pennsylvania had erred in concluding that intervening decisions had implicitly overruled *Pennsylvania Fire.* The Supreme Court concluded that "[i]f a precedent of this Court has direct application in a case," as *Pennsylvania Fire* does here, a lower court should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."

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Business Partner Speed Networking Event - Part 2 - Recap

Sienna Mercato's 3rd Floor Il Tetto was again the location for our recent speed networking event with our business partners. Nearly 30 members and business partners enjoyed gratis drinks and food (how about those meatballs!), and learned a bit about each other. Overall, the folks that attended felt it was a good event and worth their time.

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MEMBER PICTURES & PROFILES

Name: Drew Rummel

Firm: Morgan & Morgan

Years in practice: 3

Bar admissions: Pennsylvania

Special area of practice/interest, if any: Personal Injury

Most memorable court moment: This has surprisingly happened a few times, with the same judge, bu twatching the dialogue between the judge and opposing counsel during argument when opposing counsel couldn't answer the judge's questions because "this isn't my file."

What advice would you give yourself as a new attorney just passingthe bar?:Participate in organizations such as WPTLA. Participation gives you the ability to network and meet other attorneys in the practice area. You will make connections with others doing the same type of work, which gives you the opportunity to speak to people with different perspectives on your issues. It also helps with job searching

Secret Vice: Girl Scout Thin Mint Cookies

People might be surprised to know that: I was an EMT/Paramedic for 17 years prior to becoming an attorney.

Last book read for pleasure, not as research for a brief or opening/closing: It's been so long that I don't remember.

My refrigerator always contains: Beer

My favorite restaurant is: Dino's Sports Lounge in Latrobe

If I wasn't a lawyer, I'd be: A doctor

UPCOMING EVENTS

Fri, Oct 6, 2023- 3 credit CLE featuring Jude Basile and Brendan Lupetin
Rivers Club, Pittsburgh

Sat, Oct 7, 2023- 5K Run/Walk/Wheel to benefit the Steelwheelers
North Park Boathouse

Wed, Nov 8, 2023- Comeback Award Dinner
Duquesne Club, Pittsburgh

Thur, Nov 30, 2023 - 1 credit Zoom CLE featuring Synergy Lien Resolutions

Dec 2023– CLE "Practices in Judge McGinley's Courtroom"

Jan 11, 2024– Junior Member Meet & Greet, Pittsburgh

Jan 2024– Zoom Board Meeting

Feb 2024– CLE

Mar 2024– Microbrewery Event, Pittsburgh

Apr 2024- Membership Dinner + Elections
Carmody's Grille, Pittsburgh

May 2024- Annual Judiciary Dinner

Fri, May 24, 2024– Ethics and Golf
Shannopin Country Club, Pittsburgh

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The Need to Use Caution with AI

By now, we have all read about AI and various chatbots. I was curious as to whether or not one of these chatbots could help me with preparing for an argument. In order to do this, I prepared an article prompt and entered it. 2 minutes later, an argument on my topic appeared. I was quite impressed. As I read through it there was a discussion of a case that seemed right on point with an official looking Pennsylvania citation. I decided to pull the case to use in my argument. Initially, I copied the A.2d citation and searched. Nothing came up. I then entered the caption. Again, nothing came up. I then gave the article to another attorney to see if she could locate the citation since I had to be doing something wrong. However, as it turns out this was too good to be true. The final conclusion was that the case was phony. The moral of the story is do not rely on AI to write your arguments or do your research.

If you are a judge or know a judge or law clerk I invite you to pass this along lest someday we will get some bad opinions. i also encourage all of you to be more diligent than ever in cite checking your opponents' briefs and judicial opinions citing unfamiliar cases. This is something that the entire legal community must stand on guard against.

By: Mark E Milsop, Esq., of

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TRIVIA CONTEST

Enter for a Chance to Win a $100 Visa Gift Card

Trivia Question #37

What is the largest known living organism on Earth (based on area)?

Please submit all responses to Laurie at admin@wptla.org with "Trivia Question" in the subject line. Responses must be received by December 1, 2023. Prize for this contest is a $100 Visa gift card. Winner will be drawn the following week. The correct answer to Trivia Question #37 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 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.

Answer to Trivia Question #36 –**For what events did Walter Winans win Olympic gold medals?**

Answer: Walter W. Winans (April 5, 1852 – August 12, 1920) was an American marksman, horse breeder, sculptor, and painter who participated in the 1908 and 1912 Summer Olympics. He won two medals for shooting: a gold in 1908 and a silver in 1912, as well as demonstrating the sport of pistol duelling in the 1908 Games. He also won a gold medal for his sculpture An American Trotter at Stockholm in 1912. https://en.wikipedia.org/wiki/Walter_W._Winans

Congratulations to Craig Murphey, a Board of Governors Member and President's Club Member from the Erie firm of Purchase George & Murphey, PC.

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Through the Grapevine....

Past President and President's Club Member Tim Riley is now with Purchase George & Murphey, P.C, His new address is 2525 West 26th St, Ste 200, Erie, PA 16506
P: 814-833-7100 Email: triley@purchasegeorge.com

Congratulations to **Business Partner Jessica Homer, of Hess Physical Therapy**, on the birth of her first daughter, Mia Joelle Homer. Both mom and baby are doing well.

Member Matt Taladay has changed his firm's name to Taladay Law Group, LLC.
Email: matt@taladaylaw.com

President's Club Member Holly Deihl and **Young Lawyer Jessica Nelson** have moved their SWMW Law office to 437 Grant St, Ste 600, Pittsburgh, PA 15219.

Congratulations to the WPTLA Members that have been named as America's Best Lawyers for 2024.

Our most sincere sympathies to the many co-workers, colleagues and friends of the late **Judge C. Gus Kwidis,** of the Court of Common Pleas of Beaver County, who passed in April.