THE WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION'S

THE ADVOCATE

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PRESIDENT'S MESSAGE

And just like that, my term of office draws to a close.While we faced our fair share of challenges in the last year, it is fair to say we have come through them stronger. Certainly, we can look to specific innovations like virtual events (we used Zoom for everything from Board meetings to happy hours); we can credit the steadfast support of our business partners; we can point to the commitment of our members who supported virtual events like the President's 5k Challenge; and we can observe the unflagging efforts of officers like Erin Rudert who, year in and year out, helms the Advocate with patience and dedication. But more than anything else, in my view, the reason we emerge from the COVID era stronger than we began it is the conviction common to trial lawyers that we can make things better. It is that shared belief that led to the founding of WPTLA, it sustained us through COVID and it is the core upon which we will build our future.

Incoming President Mark Milsop embodies that conviction in all he does. Diligent, energetic and unwaveringly committed to the WPTLA, Mark is someone who I not only have faith in for being sound of judgment and character but also someone I know will leave no stone unturned in fulfilling his mission to make WPTLA stronger and better. I hope that you all will be as supportive of Mark as you were of me.

Looking into the future, I expect you will see a WPTLA that embraces its role in not just providing benefits for its members but in benefiting the communities in which we live. I know that many of you look forward to a return to in-person events like the Comeback Dinner and the Judiciary Dinner. Plans are already afoot for an expanded Wills Clinic program and the President's 5K Challenge promises to be bigger and better than it has ever been. Importantly, I think that some aspects of the COVID era will not be going away. Zoom as a means for providing CLE and for educating our members in the many ways our business partners can improve the quality and efficiency of their services is here to stay. I expect, too, that you will continue to be kept advised of the fight to protect civil justice in Harrisburg and Washington, D.C., and I urge you to maintain your willingness to get involved in that fight when called upon by your leadership.

I am grateful to our officers; our board of governors; our Executive Director, Laurie Lacher; and her assistant, Lorraine Eyler. Each and every one of them approached their duties with happy vigor. I am grateful, too, to all *(Continued on Page 2)*

Membership renewal notices for the 2021-2022 fiscal year have been e-mailed!

Renew your membership today to maintain access to all of the benefits of membership, including The Advocate, and to be notified of all upcoming events.

https://wptla.org/join-wptla/

PRESIDENT'S MESSAGE ... FROM PAGE 1

of you. You gave me the honor of serving as WPTLA President and you supported me in that service whenever I called upon you. I leave my term of office sad that it has to end, particularly on a literally distant note, but chock full of sustaining memories, confident that WPTLA remained strong and engaged on my watch and eager to see what comes next. Thank you for all of that and more.

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THE ADVOCATE

ARTICLE DEADLINES and PUBLICATION DATES VOLUME 34, 2021-2022

Vol 34	ARTICLE DEADLINE DATE	TARGETED PUBLICATION
Fall 2021	Sep 10	Sep 24
Winter 2022	Nov 24	Dec 10
Spring 2022	Feb 25	Mar 11
Summer 2022	May 20	Jun 3

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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PLAINTIFFS-ONLY DATABASE

The Plaintiffs-Only Database Committee is always looking for new submissions to add to the database for our members' reference and use. We are happy to review any type of submission that you are willing to share including: complaints, briefs, motions, DME reports, and doctor's deposition transcripts.

In particular, we'd like to add more submissions to our discovery motions section and the sections containing responses/briefs in opposition to preliminary objections and summary judgment motions. We would also like to continue adding content to our new "Orders and Opinions" section. If you've received a favorable ruling in any court throughout western PA, please consider sharing!

Please forward any submissions to Laurie Lacher, laurie@wptla.org, for consideration.

CAN PLAINTIFFS AVOID THE FAIR SHARE ACT AND APPLY JOINT AND SEVERAL LIABILITY? A RECENT SUPERIOR COURT CASE SAYS "YES" IN LIMITED SITUATIONS

On March 18, 2021, in *Spencer v. Johnson,* a three-judge Superior Court panel ruled that the Fair Share Act does not apply in situations where the Plaintiff is not comparatively at fault for his or her injuries. This decision opens the door, allowing Plaintiffs to collect joint and severally against multiple defendants.

The *Spencer* case involves an automobile accident that occurred on October 16, 2014 in West Philadelphia, PA. Defendant Cleveland Johnson was driving and struck Plaintiff Keith Spencer, who was a pedestrian lawfully crossing the street. When the accident occurred, Defendant Johnson was intoxicated and driving his wife Tina's work vehicle. At the time, Tina Johnson worked for Philadelphia Joint Board (PJB) and was provided with a company owned vehicle that she was in possession of 100% of the time.

As a result of the accident, Plaintiff Spencer suffered catastrophic injuries, including a skull fracture, multiple brain injuries and a seizure disorder. Because of his cognitive deficient, he became wheelchair bound and unable to care for his basic daily needs.

On November 23, 2016, Spencer filed a complaint against Cleveland Johnson, his wife; Tina Johnson, and her employer; PJB. The Complaint alleged that the accident and Plaintiff Spencer's resulting injuries were caused by the individual and/or collective negligence, carelessness, and/or recklessness of Cleveland, Tina and PBJ. Spencer set forth the following causes of action:

(1) Negligence (including negligence per se) against Cleveland;

(2) Negligence against Tina;

(3) Negligence/negligent entrustment against Tina;

(4) Negligence/negligent entrustment against PJB; and

(5) Negligent hiring, negligent retention and negligent supervision against PJB.

Plaintiff Spencer demanded judgment, ***jointly and/or severally,*** against all three defendants.

The case proceeded to trial on January 22, 2019 and lasted five days. The jury found all three defendants were negligent and awarded damages in a total verdict amount of $12,983,311.47. The liability apportionment was: Cleveland (36%), Tina (19%) and PJB (45%).

Interestingly, Spencer's Counsel filed post-trial motions and advanced an argument that because PJB was Tina's employer and their combined negligence was greater than 60%, PJB should be liable for the entire damages award under a provision of the Fair Share Act. Counsel's basis for the argument was two-fold. First, he argued that PJB should be held jointly and severally liable because PJB was directly and vicariously liable for the jury's allocation of fault on Tina as her employer. Secondly, Counsel argued that Section 1574 of the Motor Vehicle Code subjected PJB to liability.

Defendants also advanced various post-trial motions, none of which are germane to this discussion. On April 23, 2019, the Trial Court denied all post-trial motions. Shortly thereafter, the Court entered judgment in favor of Plaintiff and against the Defendants, as follows: PJB in the amount of $6,296,362.85, Tina in the amount of $2,466,829.18, *(Continued on Page 4)*

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CAN PLAINTIFFS AVOID THE FAIR SHARE ACT ... FROM PAGE 3

and Cleveland in the amount of $4,673,992.13. Spencer, Tina and PJB proceeded to file Notices of appeal.

Of course, various issues were raised on appeal, but the main issue was whether the trial court erred in denying Plaintiff's request to mold the entire verdict against PJB because its direct and vicarious liability (64% combined with Tina) exceeded the 60% threshold under the Fair Share Act.

On appeal, Plaintiff argued that joint and several liability, under the Fair Share Act, applied to this case based on the theory that Tina was acting in the course and scope of her employment and PJB was, therefore, vicariously liable for her actions. Simply put, Tina's negligence should be imputed to PJB, as her employer. Further, Plaintiff argued that the Court should have molded the verdict under a provision of the Fair Share Act that permits a plaintiff to recover solely from a single defendant, where that defendant has been found to be at least 60% or more at fault for Plaintiff's injuries and damages. Under Pa.C.S.A. §7102(a.1)(3)(iii), "A defendant's liability in any of the following actions shall be joint and several, and the court shall enter a joint and several judgment in favor of the Plaintiff and against the defendant for the total dollar amount awarded as damages...where the defendant has been held liable for not less that 60% of the total liability apportioned to all parties".

After much factual analysis, the Superior Court concluded that there was sufficient evidence to support a finding that Tina's acts were committed during the course and scope of her employment. The Court held that the trial court erred in failing to grant Plaintiff's motion to mold the verdict pursuant to the Fair Share Act because the jury's general verdict warranted a finding that PJB was vicariously liable for Tina's negligence. Therefore, the theory of joint and several liability should be applied because Tina and PJB's combined liability exceeded the 60% threshold. Ultimately, the Superior Court remanded the case for further proceedings as PJB and Tina remained jointly and severally liable for Plaintiff's injuries.

In support of it's ruling, the Court's Opinion has much discussion regarding the history of the Fair Share Act and its application. In 2011, the Fair Share Act was enacted and replaced the Comparative Negligence Act. Under the Comparative Negligence Act, an injured Plaintiff could recover against a negligent defendant or defendants, even if Plaintiff's own negligence contributed to the accident. However, Plaintiff's recovery was reduced based upon the apportionment of his/her own negligence. Also, the former statute provided that, under the rule of joint and several liability, the plaintiff could recover the full amount of the allowed recovery from any liable defendant.

The Fair Share Act essentially abolished joint and several liability, in that each liable party has to pay their "fair share" of the apportionment of negligence. This Court noted that there are two guiding principles of the Fair Share Act. First, the Act specifies that if the Plaintiff's negligence was a greater cause of her injuries than the defendants' negligence, then the plaintiff's recovery is barred. Second, if the defendants' negligence was a greater cause of the plaintiff's injuries than the plaintiff's own negligence, then the plaintiff's recovery against the defendant will be reduced in proportion to the amount of the plaintiff's negligence.

In the 87-page opinion, the Superior Court noted a distinguishment in the Fair Share Act. Neither of the two guiding principles addressed a scenario, like *Spencer,* where there is zero negligence on the part of the Plaintiff. The Court further rationalized in saying, "there is no indication that legislature intended to make universal changes to the doctrine of joint in several liability outside of cases where a plaintiff has some fault."

The Fair Share Act will continue to be applied to cases where the Plaintiff is found to be negligent in some percentage. The *Spencer* case gives Plaintiffs the ability to apply joint and several liability in situations where the Plaintiff is not at fault.

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NEED FASTER, MORE AFFORDABLE ACCESS TO MEDICAL RECORDS? USE AN APP

Lately, our office has received costly invoices in response to requests for medical records. The exorbitant charges are driven by the business models of profit driven companies like Ciox and Verisma. These companies handle the bulk of requests for records from hospitals and doctors in the UPMC and Allegheny Health Network systems.

A price of hundreds or even thousands of dollars for a copy of medical records can force difficult decisions. To control costs, some of us turn to limiting the scope of our requests. Others spend time and effort helping clients request records for delivery to their home address, at a much lower, reasonable cost.

Now, there is an easier, cheaper, and faster way to secure medical records. Recently, our office was contacted by a man in his thirty's who suffered a traumatic ankle fracture. This gentleman was concerned about the care he received from Allegheny General Hospital and an orthopedic surgeon from the AHN network. In order to properly review a potential medical malpractice case, I needed records from the client's lengthy admission to the hospital, including nursing notes and laboratory results. Since nursing notes and lab results are among the most voluminous portions of an electronic medical record, I knew the cost of obtaining the records would be through the roof. I paused to consider whether the case was worth investigating.

To my surprise, our savvy client saved the day with an app on his phone called MyChart. Clients can request their entire electronic medical record or just portions of the record directly through the app. Our client with the traumatic ankle fracture requested and received his entire, 3500-page record from Allegheny General Hospital within three days. He requested records of outpatient visits with an infectious disease specialist and received those in a few days as well.

MyChart is a product of the EMR software vendor Epic. Patients can download the MyChart application ("app") through AHN's website. It appears MyChart is available to any patient treated by an AHN affiliated heath care provider, regardless of the patient's health insurance coverage.

The process seems relatively easy. Our client navigated to a screen identifying categories of medical records generated during a hospital admission. The user can select from among the different categories of records. My client simply chose "Entire Record" to receive his complete electronic medical record.

MyChart is the product of new federal regulations implementing the 21st Century Cures Act. Congress passed the 21st Century Cures Act (Cures Act) on December 13, 2016 to modify certain portions of the HITECH Act. Passed in 2009, the HITECH Act was designed to promote health IT and electronic health information exchange, and in turn improve the quality, safety, and efficiency of healthcare in America.

On March 9, 2020, the U.S. Department of Health and Human Services' Office of the National Coordinator for Health Information Technology (ONC) issued a final rule Titled the *21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program*. The final rule paves the way for individuals to access their electronic health records through modern tools, like apps and the internet.

Under the final rule, certified health information technology (health IT) platforms must grant patients access to their electronic medical records via an easy to use, electronic hyperlink. Patients must be able to access their electronic medical records in a manner unfettered by unusable file formats or other technological barriers.[1] The standards for patient access to electronic medical records via hyperlink are detailed under the section of the Final Rule titled "Electronic Health Information (EHI) Export Criterion" ("EHI Export"). As a condition of certification, health IT products must meet the following standards for patient access to their:

·**Full Content**- The hyperlink must provide access to all electronic protected health information (ePHI) as defined in 45 CFR 160.103, i.e. individually identifiable health information transmitted by or maintained in electronic media. The ePHI must be accessible via a hyperlink to the extent the information is included in a "designated record set".The term "designated record set" is defined at 45 CFR 164.501 and includes what is commonly recognized as an individual's medical records" and "billing records" as maintained by health care providers.[2]

As simplified in the final rule, patients are entitled to the same "ePHI that a patient would have the right to request a copy of pursuant to the HIPAA

[1] 45 CFR Parts 170 and 171, RIN 0955-AA01, 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program, p. 198 of 1244.

[2] *Id.*at p. 202 of 1244.

(Continued on Page 6)

NEED FASTER, MORE AFFORDABLE ACCESS ... FROM PAGE 5

Privacy Rule". This is the same content the industry has become accustomed to producing upon patient request over the past 20 years.[3]

·Developers of health IT must ensure their product is capable of exporting all of the EHI the product is capable of storing at the time the product is certified.

·**Ease for the "users of health IT" and the patients** - Users of the health IT (e.g. health care professional or their office staff, or a software program or service that interacts directly with the health IT) must be able to create an export file(s) of a single patient's EHI at any time the user chooses and without assistance from the developer of the health IT to operate. Log-in or similar requirements are not expressly forbidden under the rule; however, a patient must be able to access their EHI via the hyperlink "without any preconditions or additional steps".

·The export files must be electronic, in a computable format, and the export file(s) format, including structure and syntax, must be included with the exported file.

·The developer must keep the hyperlinks up-to-date.[4]

·**Nearly Real-Time** - The user must be able to create an export file in a timely manner. The term "timely" means nearly real-time, though reasonable and prudent under the circumstances.[5]

·**Radiographic imaging**- The hyperlinks must provide access to images, imaging information (i.e. reports) or imaging elements that can be stored in a health IT module at the time of certification. However, it is unlikely this certification standard will make images readily available to patients via hyperlink. The final rule recognizes many health IT products may only include links to imaging or imaging data stored in a separate imaging system, such as Picture Archiving and Communication Systems (PACS). In such cases, only the links must be capable of export to the patient.[6]

The final rule's new data export requirements will be codified at 45 CFR §170.315(b)(10). Health IT developers will remain eligible for certification of a health IT product that satisfies much more limited 2015 criteria for data export for up to 36 months following the date the final rule was published in the Federal Register (May 1, 2020).

New technology comes with challenges. Our flip-phone clients may not be ready to order their medical records on an app. Nevertheless, we have a new opportunity to save clients and our firms thousands of dollars, while eliminating weeks of delay and often hassle in securing medical records. I look forward to hearing about your experiences with MyChart and other apps in the months and years ahead.

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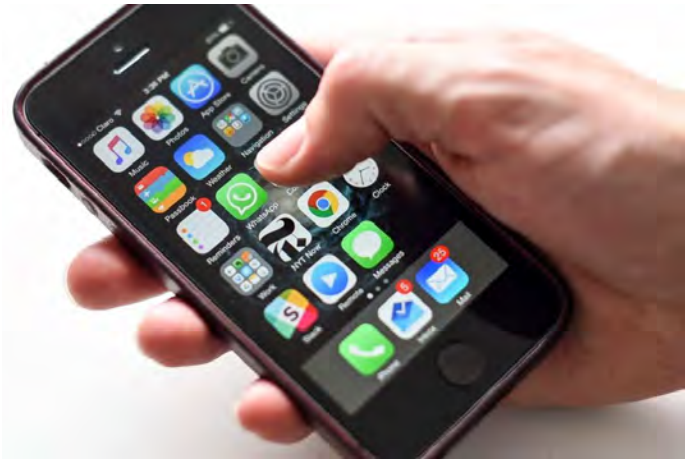
[3] *Id.*at pp. 119, 210 of 1244.

[4] *Id.*at pp. 217-218 of 1244.

[5] *Id.*at p. 200-201 of 1244.

[6] *Id.*at p. 214-215 of 1244.



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WILLS CLINIC Q & A

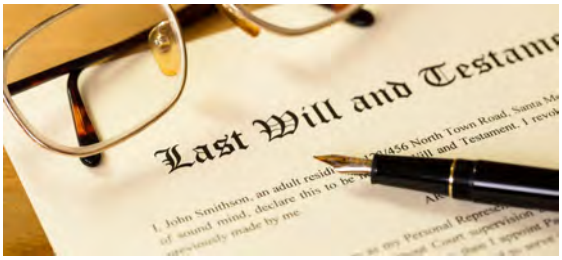
WPTLA invites our members to help the less fortunate and fulfill pro-bono obligations through the Wills Project. We recognize members have many unanswered questions about representing the Wills Project's clients. Here are some answers to frequently asked questions that we hope will motivate you to volunteer:

Q: I've never drafted a Will, Power of Attorney, or Healthcare Power of Attorney/Living Will. How do I know what to do?

A: No previous experience is necessary, but we understand if you need guidance! A single, 2-3 hour CLE will teach you everything you need to know. We are planning a CLE through the Allegheny County Bar Foundation/Pittsburgh Pro Bono Partnership in the near future. The CLE will be recorded and available for members to access on the WPTLA website.

Q: I don't want to make a mistake. What if the client has a legal issue I can't answer?

A: Lawyers with experience in estate law are available to answer your questions. However, we screen potential clients to make sure each client has only the most basic assets and needs, as is often the case with the indigent. In the event the client presents with an estate issue you don't know how to handle, either consult one of the experienced estate law attorneys available to help you or decline representation and move on to the next client.



Q: Will I have professional liability insurance coverage for this work?

A: Yes. Volunteers are covered through the ACBF's insurance program, regardless of whether the volunteer completed a CLE about drafting wills or the different power of attorney documents.

Q: Do I need to meet the client in person, and if so when and where?

A: It's up to you. Volunteer attorneys have met with clients entirely by phone or videoconferencing apps like Zoom or Facetime. You can also arrange to meet clients at Operation Better Block in Homewood, PA on a date and time convenient for you and the client.

Q: Do I need to oversee execution of the documents in person?

A: No. So long as you provide detailed instructions about execution and where to sign (a form for which we can provide to you), you do not need to oversee the execution of the documents.

Q: What about notarization?

A: Operation Better Block has a notary on-site. However, as long as you provide your client with written and verbal instructions to execute the documents before a notary, you have done enough.

JUDGE CLARIFIES APPROPRIATE DEPOSITION OBJECTION RULES

Allegheny County Discovery Motions Judge Ignelzi has authored a recent opinion that is sure to impact deposition practice. The opinion was authored in *Lau v. Allegheny Health Network et al.*, No. GD 18-011924 (Allegheny County March 30, 2021).

The controversy arose out of the deposition of a defendant physician in a medical malpractice case. Before analyzing the specific issues before the Court, Judge Ignelzi surveyed much recent case law concerning depositions and discovery. In so doing, Pennsylvania's long history of liberal discovery was noted along with the proposition that doubts about discovery should be resolved in favor of discovery.

Turning to the issues before the court, the first issue pertained to questions seeking expert opinions from the defendant doctor. Defense counsel would not represent that he would not be supplying expert testimony at trial.

The Court then explained that, Pa.R.C.P. No. 4003.1(c) does not provide for an objection to questions involving an opinion or contention. The rule actually allows that "it is not ground for objection that the information sought involves an opinion or contention that related to a fact or the application of law to fact." Judge Ignelzi thereafter noted that although the rule is clear, it has been inconsistently applied. He then noted prior cases approving of the practice of defense counsel having the defendant doctor state on the record that he or she will not serve as an expert at trial and thereafter instruct the deponent not to answer. Nonetheless, he rejected this approach, finding it untenable due to the intertwined nature of facts and opinions and causative of other problems. Judge Ignelzi further observed that there is a lack of any statute, rule or appellate authority granting the defendant deponent a right to answer such questions. The ultimate conclusion on this issue was "a deponent physician may be examined, **in discovery**, of his professional opinion or the standard of care ..." Lau, at p. 26.

The defense attorney also objected to questions about worksheets in the record. Defense counsel objected that he was not a records custodian. This objection was rejected.

The Court went on to note that "there are valid and strategic reasons for counsel to place objections on the record." It was then stated absent privilege or prior order of court, an instruction to a deponent not to answer a question without a good faith basis will subject the obstructionist to risk of sanction." Lau, at p.27.

The Court also listed several types of objection to form which should be made. They include:

·Ambiguous

·Unintelligible

·Misstatements of evidence or testimony

·Argumentative

·Assuming facts not in evidence

·Calling for speculation

The Court then outlined the following rules in its conclusion:

1. Any objection shall be stated concisely in a non-argumentative and non-suggestive manner; and

2. Counsel shall not direct or request that a witness not answer a question unless counsel has objected on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court.

Lau, at p. 33.

IMPORTANT RULINGS ON SERVICE

In *Gussom v. Teagle*, 247 A.3d 1046 (Pa. 2021), the Pennsylvania Supreme Court found that the Plaintiff had not made good faith efforts to accomplish timely service. In so doing, the Court held that Plaintiff's case can be dismissed regardless of whether or not the failure to make good faith efforts to accomplish timely service was intentional. Justice Baer stated for the Court:

> If a plaintiff does not present such evidence, then she has failed to satisfy her evidentiary burden, regardless of whether her actions (or inaction) were intentional, unintentional, or otherwise.

Gussom v. Teagle, 247 A.3d 1046 (Pa. 2021).

In arriving at this decision, the Court set forth the following standard based upon its reading of *Farinacci v. Beaver Cty. Indus. Dev. Auth.*, 510 Pa. 589, 511 A.2d 757 (1986):

> the plaintiff carries an evidentiary burden of proving that she made a good-faith effort to ensure that notice of the commencement of an action was served on the defendant

Gussom, 247 A.3d 1046 (Pa. 2021).

Nonetheless, the Court made clear that it was not disturbing the essential holding in *McCreesh v. City of Phila.*, 585 Pa. 211, 888 A.2d 664 (2005), in which it stated as follows:

> a trial court should not punish a plaintiff by dismissing her complaint

(Continued on Page 9)

> where she is able to establish that her improper but diligent attempts at service resulted in the defendant receiving actual notice of the commencement of the action, unless the plaintiff's failure to serve process properly evinced an intent to stall the judicial machinery or otherwise prejudiced the defendant.

Gussom v. Teagle, 247 A.3d 1046 (Pa. 2021) citing *McCreesh*.

At the trial court level, there is a recent favorable decision out of Northampton County. In *Pasquariello v. Manwiller*, No. C-48-CV2020-00607, the Court applied *McCreesh v. City of Phila.*, 585 Pa. 211, 888 A.2d 664 (Northampton Cnty 2005) to deny preliminary objections to personal jurisdiction where the plaintiff had initially sent the complaint to the insurance carrier seeking acceptance of service with service thereafter being delayed due to the Covid 19 pandemic.

Another recent trial court decision is also noteworthy for its recognition of the Covid 19 pandemic as a basis for delay before making a second attempt at service. That opinion authored by Judge Julia K. Munley of Lackawanna County can be found at *Kadtka v. 81 Keystone LLC*, No. 2019 – CV 0 7109 (Lackawanna County May 6, 2021). Judge Munley offered an excellent outline of the time line on how various orders affected the legal system and lawyers with specific references.

This opinion is also noteworthy for recognizing the Defendant's own fault in failing to update its address with the department of state.

Finally, the *Kadtka* decision also offers excellent analysis as to why the continuous reissue approach espoused in the lead (not a majority) opinion in *Witherspoon v. City of Phila.*, 564 Pa. 388, 768 A.2d 1079 (2001) is not good law.

ERROR TO NOT QUALIFY LIFE CARE PLANNER AS AN EXPERT

In *Povrzenich v. Ripepi*, 2021 PA Super 46, the Pennsylvania Superior Court held that it was error to exclude the expert testimony of a nurse who was also a certified life care planner. There, the plaintiff alleged that several medical providers were negligent in failing to timely diagnose kidney reflux which resulted in end stage kidney disease which required a transplant. During trial, the plaintiff sought to introduce a lifecare plan for future costs associated with the kidney transplant.

The lifecare planner in question was a certified life care planner with twenty years of experience as registered nurse.

Judge Bowes began her analysis by noting "A life care planner is a recognized expert in Pennsylvania who "reviews medical records and bills to formulate an expert opinion projecting the future medical costs of an individual over her lifetime." *Povrzenich v. Ripepi*, 2021 PA Super 46 citing *Deeds v. Univ. of Pennsylvania Med. Ctr.*, 2015 PA Super 21, 110 A.3d 1009, 1012 (Pa.Super. 2015). Judge Bowes then found that the nurse care planner should have been qualified as an expert. Although the defense argued that the planner had little experience with kidney transplant patients, Judge Bowes rejected that argument stating that the fact that the planner:

> had not personally cared for a kidney transplant patient would not hamper her ability to research and accurately tabulate the expenses associated with such a procedure. Any lack of experience with kidney transplants in particular went to the weight of her testimony, not to its admissibility.

Povrzenich v. Ripepi, 2021 PA Super 46.

WASHINGTON COUNTY RECOGNIZES RECKLESSNESS AS A STATE OF MIND WHICH MAY BE PLEADED GENERALLY

In the ongoing conflict in decisions among Common Pleas Courts, Washington County weighed in on the pleading of recklessness in *Cimino v. Cannonsburg General Hospital* No. 2020-4838 (Washington Cnty March 19, 2021). In that opinion, Judge Michael Lucas relied upon *Archibald v. Kemble*, 971 A.2d 313 (Pa. Super. 2009) for the proposition that recklessness is a state of mind which may be averred generally. Nonetheless, Judge Lucas did note that the complaint did allege that the hospital did not offer MRI services on the weekend as a cost savings measure.

WESTMORELAND COUNTY'S ELECTRONIC FILING IS NOW LIVE

Westmoreland County reports that it now offers an electronic filing system. The filing system can be accessed with this link:

https://proefile.co.westmoreland.pa.us/efiling/#/login.

It appears that there is a fee of $15 for the first filing and $8 per subsequent filing.

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Commonwealth Court Applies Whitmoyer Case in Petition for Review

A full panel of the Commonwealth Court recently decided *Beaver Valley Slag Inc. v. Jason Marchionda (WCAB)* 867 C.D. 2020; 901 C.D. 2020. It applied the principles of *Whitmoyer v. WCAB (Mountain Country Meats)* 646 Pa. 69, 186 A.3d 9047 (Pa. 2018) to a litigation involving a Petition to Review Compensation Benefits regarding a Third Party Settlement Agreement. As readers will recall in Whitmoyer, the Pennsylvania Supreme Court determined that §319 of the Workers' Compensation Act prevents subrogation against future medical benefits. In Beaver Valley Slag, the injured employee suffered a concussion, skull fracture and brain injury which left him completely incapacitated such that a guardian was appointed. He was placed on workers' compensation benefits and the guardian pursued a products liability lawsuit against the manufacturer of the stone crusher machine, the malfunction of which caused the Claimant's injuries. The case was settled for $10,450,000 and a third-party settlement agreement was entered into providing for 33.7% of future medical expenses and wage loss benefits reimbursed as the pro rata share of the fees and expenses. The total subrogation interest amounted to $8,794,337.

Subsequent to the execution of the Agreement, *Whitmoyer* was decided by the Supreme Court. Shortly thereafter, the guardian sought review through the workers' compensation system of the subrogation credit.

The Workers' Compensation Judge granted the review petition to find that subrogation no longer applied to the injured worker's medical benefits as of the date *Whitmoyer* was decided. Thereafter, employer/carrier had to pay 100% of medical expenses going forward. The Workers' Compensation Appeal Board affirmed the employer/carrier appealed to the Commonwealth Court.

On appeal, employer/carrier argued that the Third Party Settlement Agreement was final and therefore not subject to review. It made this argument despite the fact that the Claimant was still receiving benefits at the time *Whitmoyer* was decided. The Court concluded that §413 (a) of the Workers' Compensation Act permitted a Workers' Compensation Judge to review, modify or set aside the Third Party Settlement Agreement based on a petition filed by either party.

Employer/carrier also argued to the Commonwealth Court that *Whitmoyer* should not have been applied retroactively. In support of that argument, employer cited multiple case determining the retroactivity of *Protz v. WCAB (Derry Area school District)*, 639 Pa. 645, 161 A.3d 827 (Pa. 2017) (*Protz II).* Ultimately, the Court's decision came down to the timing of the application of *Whitmoyer* to the instant case. The Court noted that the issues before the Court on the application of *Whitmoyer* were not "pending on direct appeal" when *Whitmoyer* was decided. Citing *Dana Holding Corporation v. WCAB (Smuck)* 232 A.3d 629 (Pa. 2020) (*Dana Holding II*) the Court found that *Whitmoyer* could not be applied as of the date of the execution of the Third Party Settlement Agreement. Rather, *Whitmoyer* applied to the instant case as of the date *Whitmoyer* was decided.

Ultimately, *Beaver Valley Slag* determined that *Whitmoyer* can only be applied as of the date said decision was made by the Pennsylvania Supreme Court. At least until the Supreme Court addresses the issue, there can be no retroactivity back to the date the Third Party Settlement Agreement was executed.

Kudos to member Mark Homyak for his efforts in the case.

Legislative Attempts to Undo Whitmoyer

Legislation is pending in the Pennsylvania legislature designed to undo benefits of the *Whitmoyer* decision. Your lobbying team is actively addressing these issues. The activities of our lobbying team demonstrate the necessity of PAJ membership and Lawpac donations. Please maintain your membership and contribute as much as you can.

By: Tom Baumann, Esq. of

AbesBaumann, P.C.

tcb@abesbaumann.com

Thank you

Dear Members of WPTLA,

I am writing to thank you for selecting me as one of your 2021 Scholarship Essay winners. I greatly enjoyed participating in the contest and will put the award to good use as I pursue my education at the Schreyer Honors College at Penn State, University Park.

Sincerely,

Brian Johnson

Hollidaysburg Area High School '21

Erie v. Mione 2021 PA Super 91 (Pa. Superior Court May 10, 2021)

The Pennsylvania Superior Court affirms a trial court's decision to limit the holding in Gallagher v. Geico to stacking and finds it inapplicable to situations when a host vehicle has no UM/UIM coverage.

This case arises out of a dispute over whether Albert and Lisa Mione were entitled to UIM benefits for a motor vehicle accident on July 21, 2018. Albert Mione was injured while operating his motorcycle due to the negligence of a third-party. At that time, Albert, his wife Lisa and Angela Mione resided together. Albert recovered the applicable policy limits from the tort liability insurer and then sought to recover benefits from an Erie auto policy issued to he and his wife as well as a second Erie auto policy issued to Angela Mione. Neither of these Erie policies listed the motorcycle as a covered vehicle. Instead, the motorcycle was insured under a Progressive Insurance policy, which did not carry UM/UIM benefits.

A Dec-Action was filed by Erie on November 6, 2019. Erie filed a Motion for Judgment on the Pleadings arguing that the Mione's were precluded from recovering UIM benefits under the Erie policies because Albert's motorcycle was not listed as a covered vehicle on either Erie policy and both policies contained a "household exclusion" clause that precluded recovering UIM benefits for injuries arising out of a non-listed vehicle. Erie further argued that the Supreme Court's decision in *Gallagher v. GEICO Indem. Co.,*was inapplicable because that decision involved a situation where the "household exclusion" acted to prevent recovery of stacked UIM benefits even though the plaintiff had paid for stacked UIM coverage on his motorcycle policy and his auto policy. Instead, Erie contended that the case was governed by the Supreme Court's decision in *Eichelman v. Nationwide Ins. Co.,*where a plaintiff did not pay for UIM coverage on his motorcycle policy and it was determined that the "household exclusion" prevented him from recovering UIM benefits under auto policies issued to members of his household.

In response, the Miones argued that although the motorcycle was not listed on either policy, Erie knew about its presence in the household. The Miones asserted that it was against public policy and the PA MVFRL for Erie to completely exclude motorcycles from coverage and that the "household exclusion" contained in both Erie policies was void. They argued that Albert's rejection of UIM coverage on his Progressive motorcycle policy did not prevent access to the UIM coverage available under both Erie policies and that Albert did not purchase separate UIM coverage on the Progressive policy because of the already existing UIM coverage purchased under the Erie policies. Finally, the Miones argued that "stacked" UIM coverage is the default coverage available on every insurance policy and that the *Eichelman* decision had been implicitly overruled. The trial court granted Erie's Motion for Judgment on the Pleadings. The decision was appealed to the Superior Court.

At the outset of their review, the Superior Court noted that this area of the law was not particularly clear and straightforward. As such the Court reviewed *Eichelman, Gallagher,*and the cases decided since *Gallagher* as part of their opinion. After considering the relevant case law, the Superior Court agreed with Erie and the trial court that stacking and Section 1738 were not implicated in the case *sub judice*. Specifically, the Court found that the Progressive motorcycle policy did not have UIM coverage on which to stack the Erie policies' UIM benefits. Instead, like the individuals in *Eichelman,* Albert Mione was attempting to use the Erie policies to procure UIM coverage in the first place. Therefore, the Court found this was not a stacking case and the rationale of *Gallagher* did not apply.

The Court held that *Gallagher* only invalidated household exclusions in cases where they were used to circumvent Section 1738's specific requirements for waiving stacking. The Court did not agree with the Mione's argument that *Eichelman* had been overruled. As such, the Court applied *Eichelman's* principle that a clear and unambiguous household exclusion was enforceable where an insured was operating a vehicle at the time of the accident that was covered by a separate policy not providing the insured with UM/UIM coverage because the insured had voluntarily, and validly, waived such coverage. Because the household exclusions in the Erie policies were enforceable to preclude the Miones' from recovering UIM benefits, no relief was due to them and the trial court's order granting Erie's Motion for Judgment on the Pleadings was affirmed.

Sullivan v. Werner Company et. al. 2021 Pa. Super. 66 (Pa. Super. April 15, 2021)

Superior Court holds that industry standards evidence may be excluded in products liability cases in first major appellate decision on the issue since the Supreme Court's seminal decision in Tincher v. Omega Flex.

This case arises from a June 26, 2015, construction accident where Michael Sullivan (Plaintiff) was injured while installing a piece of scaffolding. As a result of his injuries, Plaintiff brought a strict products liability action after he fell through the scaffolding, which was made by Werner Company and sold by *(Continued on Page 12)*

Lowe's (collectively "manufacturers"). Following trial, a jury determined that a design defect caused the accident and awarded Plaintiff $2.5 million in damages. On appeal, the manufacturers raised a number of challenges including that the trial court had erred in precluding the manufacturers from offering industry standards evidence by granting a *motion in limine* in favor of the Plaintiff on this issue.

To address this issue, the Superior Court conducted a survey of the case law on the admissibility of government and industry standards evidence in strict liability actions. Following review, the Court upheld the trial court's ruling, finding that a trial court may prohibit Defendants from introducing evidence about industry standards during products liability trials. The Court found that the Supreme Court's decision in *Tincher v. Omega Flex* neither explicitly nor implicitly overruled the exclusion of industry standards in a products liability case. Moreover, the Court held that the language of the RESTATEMENT (SECOND) OF TORTS § 402A(2)(a) provides a trial court with a sufficient and rationale reason to exclude such evidence explaining that it is irrelevant if a product is designed with all possible care, including whether it has complied with all industry standards, because the manufacture is still liable if the product is unsafe.

Gibson v. State Farm, Nos. 20-1589, 20-1609 (3rd Circuit Court of Appeals April 8, 2021)

Third Circuit Reverses District Court and holds that an Application for Benefits is a valid §1734 sign down even if an insurer has other required forms that are not executed.

In late April 2016, Eileen Gibson ("Plaintiff") signed a State Farm insurance application for bodily injury coverage of $250,000 but maintained $100,000 in stacked UIM coverage. As the Plaintiff insured three cars, the total stacked UIM coverage provided for in the application was $300,000. On the third page of the application, the Plaintiff signed her name attesting that the limits and coverages in the application were selected by her. The policy was issued effective April 22, 2016. The last page of the pre-printed application referenced other documents, listed as "required" documents, including an acknowledgement of coverage selection form for UIM which listed UIM coverage of $300,000. State Farm did not provide these additional forms to Plaintiff when she applied for insurance in April of 2016.

Following the signing of the application, Plaintiff was seriously injured in an accident in May of 2016. Approximately three (3) weeks after her accident, Plaintiff returned to the State Farm office to sign the other documents referenced in her application. During this post-accident visit, Plaintiff signed a form confirming her election of lower UIM limits as well as the other required documents.

Plaintiff filed a lawsuit against State Farm for UIM coverage and breach of contract. The parties proceeded to trial and a jury awarded Plaintiff $1,750,000 in damages. State Farm moved to mold the verdict to the UIM policy limit, arguing that the UIM policy limit was $300,000. Plaintiff cross-moved to mold the verdict to $750,000 on the basis that State Farm's application to elect a lower UIM policy limit did not comply with Pennsylvania law.

The District Court granted the Plaintiff's motion to mold the verdict to $750,000 finding State Farm's reference in the application to "required" documents created ambiguity. Because that ambiguity was to be construed against State Farm, the District Court concluded that Plaintiff was entitled to the higher default UIM coverage amount, rather than the lower limits she selected before and after the accident. The District Court concluded that State Farm's own documents stated that the coverage selection was "required" and as such the insured needed more information before the sign down was effective.

The Third Circuit reversed the District Court's decision, finding that the three-page application for insurance with State Farm signed by Plaintiff was sufficient to satisfy §1734's minimal requirement of a "request in writing". The Third Circuit ruled that the application was sufficient because it had the amount of coverage filled in and was signed and dated. The Court found that Pennsylvania law requires only that the insured make a "request in writing" to accomplish a valid UIM sign down and that an insured can make that choice in any writing as long as the choice is clear.

Povrzenich v. Ripepi M.D. et. al., 2021 Pa. Super. 46 (Pa. Super. March 19, 2021) ***Superior Court reverses trial court's decision to exclude a life care planning expert from offering her opinions at trial and provides guidance on when a Plaintiff's actions during litigation effect delay damages.***

On September 20, 2013, Lacey Povrzenich ("Plaintiff"), filed medical malpractice actions against a number of physicians and hospitals ("Defendants") alleging that they were negligent in failing to *(Continued on Page 13)*

conduct further testing, and/or failing to refer her to a specialist, resulting in additional damages due to delay in the diagnosis of her kidney disease. As a result, Plaintiff was required to undergo a kidney transplant with a kidney donated by her mother. Following the transplant, Plaintiff displayed signs of rejection and required dialysis. It was expected that she would require a second kidney transplant in the future.

The cases were consolidated and a two-week jury trial commenced on October 16, 2018. The jury returned a verdict in favor of the Plaintiff and awarded $245,573.28 for past medicals, $1 million for past economic loss, and $3 million for future noneconomic losses.

Following trial, Plaintiff filed a motion for post-trial relief seeking a new trial limited to damages, alleging that the trial court improperly excluded her life care planner from testifying as to future medical expenses, which the trial court denied. Plaintiff also filed a motion to mold the verdict to include delay damages, which was granted in part and denied in part. Both of these rulings, among others, were appealed to the Superior Court.

Regarding the issue of excluding the testimony of an expert, the Superior Court observed that at trial, Plaintiff called Nurse Bissontz to offer testimony consistent with her expert report as a certified life care planner. During *voir dire* ,Nurse Bissontz established her education as a nurse and her work experience in diverse settings including nursing homes, operating rooms and conducting utilization review. In addition, Nurse Bissontz obtained certification as a life care planner from Capital University's law school.

Defense counsel cross-examined Nurse Bissontz regarding her qualifications and thereafter objected to her testimony arguing that she had no particular expertise with respect to individuals who had undergone kidney transplants and was not qualified to render medical conclusions. The trial court agreed and excluded Nurse Bissontz's testimony.

The Superior Court reversed the trial court's decision finding that Nurse Bissontz had sufficient specialized knowledge and experience to offer her expert opinions regarding the future medical expenses associated with post-kidney transplant care and an anticipated second kidney transplant. The Court determined that the matter under investigation was not a kidney transplant *per se,* but the costs associated with such a procedure. The mere fact that Nurse Bissontz had not personally cared for a kidney transplant patient would not hamper her ability to research and accurately tabulate the expenses associated with such a procedure. The Superior Court also found that the trial court's ruling could not be affirmed based on a lack of foundation. As the Court explained, Nurse Bissontz was excluded after *voir dire* on qualifications only and thus she never had the opportunity to explain the factual foundation for her expert opinions. Consequently, the Superior Court concluded that the trial court had abused its discretion in precluding Nurse Bissontz from testifying at trial. The case was remanded for a new trial limited to damages for future medical expenses.

Plaintiff also appealed the issue of whether the trial court erred in excluding from the calculation of delay damages three (3) periods when Plaintiff sought and obtained discovery extensions. On review of this issue, the Superior Court found that the trial court made no finding that Plaintiff required discovery extensions because she had not proceeded diligently. Instead, the trial court's decision suggested that the discovery continuances counted against the Plaintiff simply because she requested them. Relying on its previous decision in *Kuchak v. Lancaster*, the Superior Court declined to endorse the trial court's position that every extension of discovery sought by a plaintiff in a complicated case *ipso facto* constitutes a delay of trial merely because a trial date is not set until discovery is closed. The Court reasoned that there are many valid reasons why discovery may need to be extended, especially in complex cases with multiple defendants and attorneys.

The Superior Court vacated the trial court's award of delay damages and instructed the lower court to determine whether during the periods Plaintiff sought and obtained discovery extensions, Plaintiff displayed a lack of diligence that delayed trial and assess delay damages accordingly.

By: Shawn Kressley, Esq.,

of DelVecchio & Miller

shawn@dmlawpgh.com

MEMBER PICTURES & PROFILES

Name: Russell J. Bopp

Firm: Marcus & Mack, P.C.

Law School: Duquesne University School of Law

Year Graduated: 2015

Special area of practice/interest, if any: Representing victims that have been injured by an impaired driver under the influence of alcohol and/or controlled substances, including prescription medications such as methadone, oxycodone, and benzodiazepines.

Tell us something about your practice that we might not know: I started my career as a defense attorney representing insurance companies against claims for bad faith conduct. I am now able to leverage that knowledge to help clients through the insurance claim process and, if necessary, in litigation.

Most memorable court moment: Obtaining a substantial award in a binding arbitration by relying entirely on the Defendant's expert report!

Most embarrassing (but printable) court moment: My first assignment as an associate attorney was to cover a simple motion for a partner in the firm. Unfortunately, I didn't have a great understanding of the layout of the courthouse. I waited in the wrong courtroom until the time came to present the motion. When the Judge didn't come out, I realized my mistake. I got directions from the nearest law clerk and ran to the correct courtroom.I arrived late, out of breath, and embarrassed, but the Judge ended up granting my Motion!

Most memorable WPTLA moment: The WPTLA Comeback Award Dinner is the most memorable event every year! This event is a vivid reminder that attorneys have an opportunity to make a tangible and positive impact in the life of each client.

Happiest/Proudest moment as a lawyer: Overcoming a Motion for Summary Judgment, winning Motions in Limine, and obtaining a substantial settlement on the eve of trial for a client that had suffered life-altering injuries.

Best Virtue: Patience. I have young children. Enough said.

Secret Vice: Easily scared. You won't find me in a haunted house.

People might be surprised to know that: I taught myself how to play guitar and led worship for our church in Pittsburgh for five years.

Favorite movie: The Greatest Showman.

Last book read for pleasure, not as research for a brief or opening/closing: The Way of Kings, from the Stormlight Archive, by Brandon Sanderson.

My refrigerator always contains: Cheese!

My favorite beverage is: Homemade Lemonade.

My favorite restaurant is: Luigi's in Clymer, Pennsylvania.

If I wasn't a lawyer, I'd be: An Author

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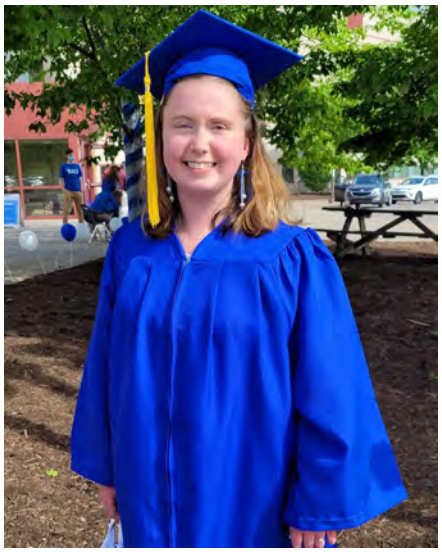
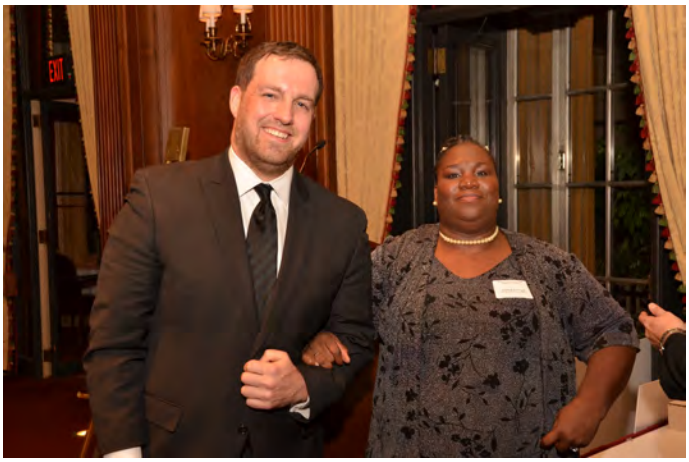
PAST COMEBACK AWARD WINNERS UPDATE

Davanna Feyrer, 2012 Comeback Award Winner, has received her Associate Degree from Butler Community College. Davanna studied photography.



Our most sincere congratulations to Davanna and her parents, David and Minetta.

We offer our most heartfelt sympathies to the friends and family of 2013 Comeback Award Winner **Kimberly Puryear**. Kimberly passed unexpectedly on May 9, 2021. She was always so proud of her Comeback Award. Kimberly was laid to rest on Jun 4 with military honors.



Pictured above, from L to R; nominating attorney Steve Barth, 2013 Comeback Award Winner Kimberly Puryear.

UPCOMING EVENTS

Tues, Aug 31 - Wed, Sep 1, 2021 - Annual Kick Off Event - Pittsburgh *(Details forthcoming)*

Sep, 2021 - Legislative Meet 'n Greet - Pittsburgh

Sat, Oct 2, 2021 - 5K Run/Walk/Wheel to benefit the Steelwheelers - North Park Boathouse

Mon, Oct 18, 2021 - Beaver County Dinner + Awards - Wooden Angel, Beaver

Wed, Nov 10, 2021 - Comeback Award Dinner - The Duquesne Club, Pittsburgh

Dec, 2021 - Lunch 'n Learn CLE - Pittsburgh

Jan/Feb, 2022 - Junior Member Meet 'n Greet

Mar, 2022 - Washington County Dinner & CLE - Canonsburg

Apr, 2022 - Annual Membership Election Dinner Meeting - Pittsburgh

May, 2022 - Annual Judiciary Dinner - Heinz Field, Pittsburgh

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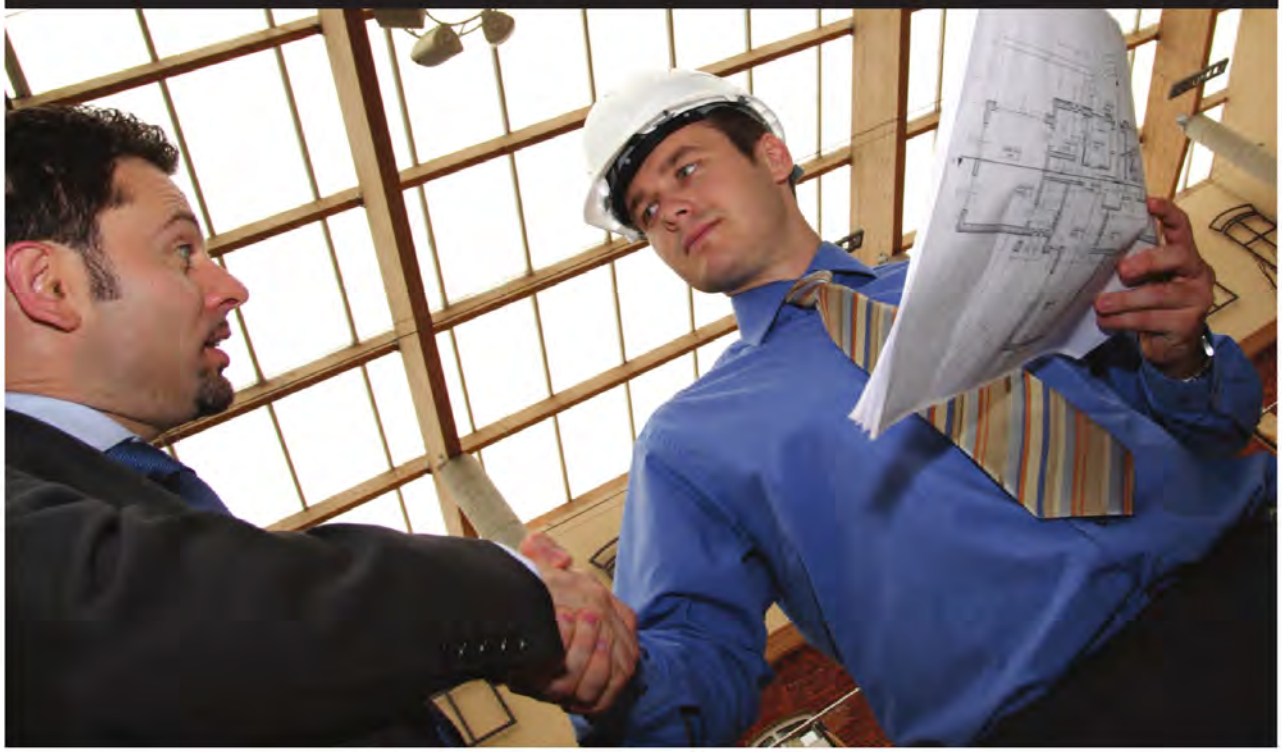

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Trivia Question #28

What specific feature of the sentence "The quick brown fox jumps over the lazy dog" made it the sentence of choice for calibrating display settings and displaying exemplar fonts?

Please submit all responses to Laurie at admin@wptla.org with "Trivia Question" in the subject line. Responses must be received by August 27, 2021. Prize for this contest is a $100 Visa gift card. Winner will be drawn the following week. The correct answer to Trivia Question #28 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 #27 –**What form of inoculation preceded vaccination, dating back to the early 1700s in North America? '**

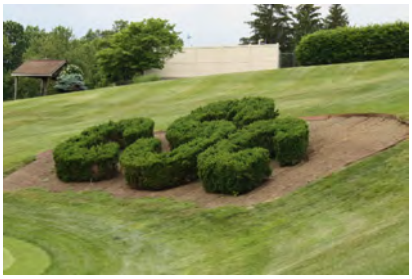
ANSWER: Variolation. Variolation is a method of inoculation first used in China, India, part of Africa, and the Middle East before being introduced into North America in the early 1700s.

No entries were received for this contest, so there is no winner!

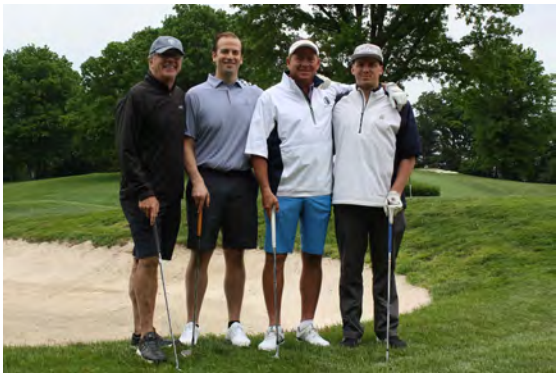
28TH ANNUAL ETHICS & GOLF OUTING

On Friday, May 28, in the wee hours before 8:00am, Past Presidents Jack Goodrich, Larry Kelly and Rich Schubert led an excellent and informative Ethics CLE seminar for 18 attorneys. Those in attendance were treated to a delicious hot breakfast and an hour's worth of information and guidance from some great and experienced trial lawyers. One attendee wrote that it was "the best seminar I attended all year."

At 8:30am, 53 golfers scattered across the course at Shannopin Country Club in Pittsburgh for the scramble tournament. The weather was overcast but dry for the majority of the outing. Afterwards, all were able to relax and dry off in the dining room, where a buffet lunch and tournament awards were served. Thanks to Business Partner George Hargenrader, of Thrivest Link, for supplying golfballs and goodies. And thanks to Chair Jack Goodrich for another successful outing!

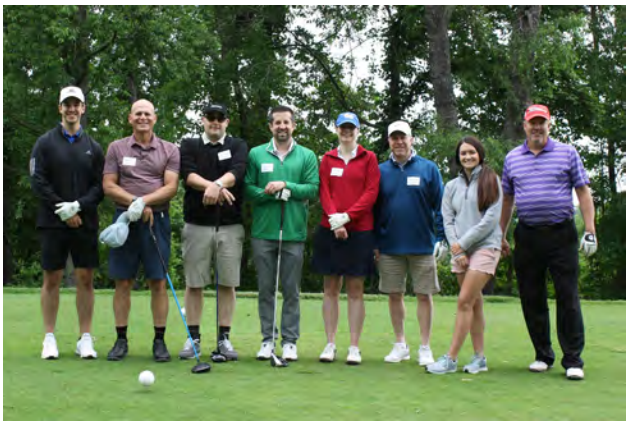


More photos from the outing can be found on pages 20 and 21.



Pictured above, from L to R; Craig Koryak, Greg Morrow, Chair and Past President Jack Goodrich, and Jim Braunlich.

Pictured below, from L to R; Board of Governors Member Nick Katko, Mike Rosenzweig, Brad Trust, Robert Fisher, Christine Zaremski-Young, Jason Lichtenstein, Kathryn Monbaron and Doug Olcott.



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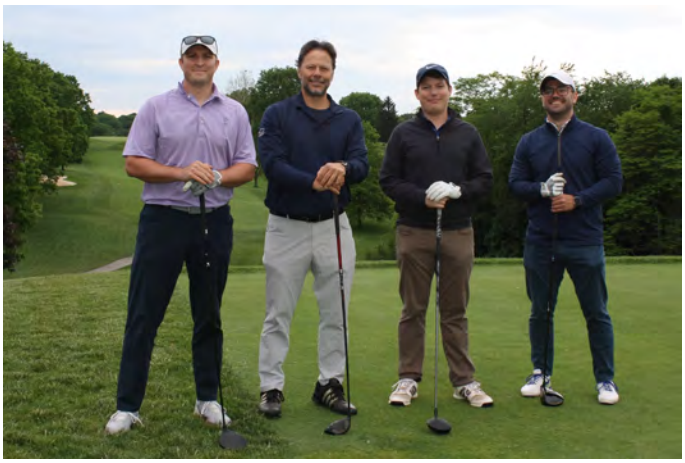
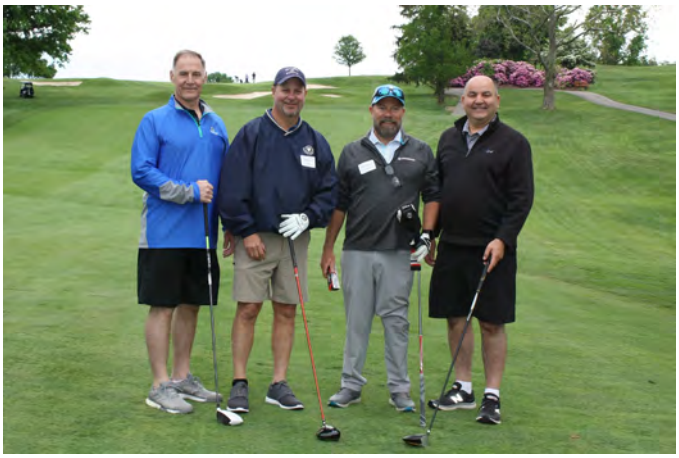
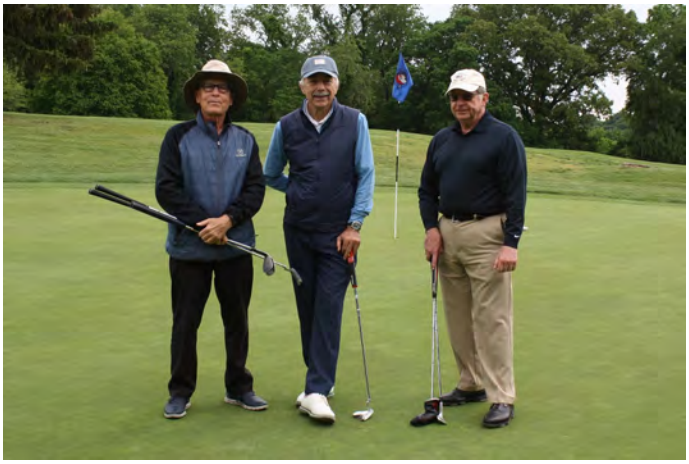
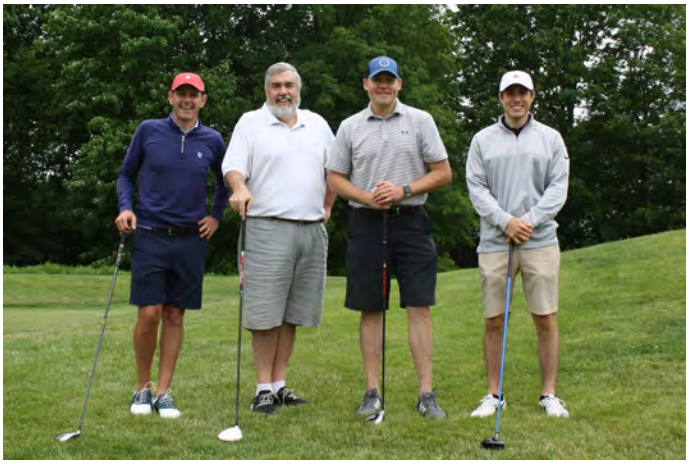
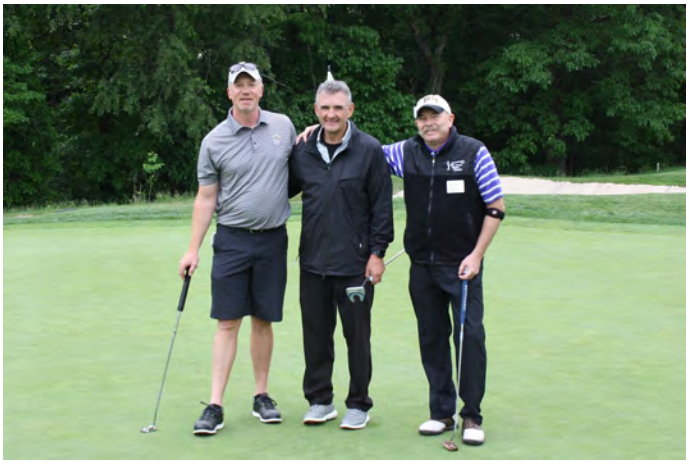
28TH ANNUAL ETHICS & GOLF OUTING PHOTOS

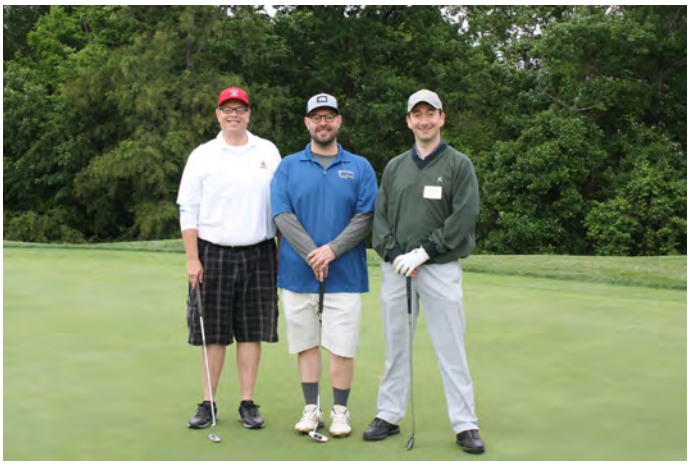












Pictured top left, from L to R; Mark Bucklaw, Tony Mengine, Chris Inman and James Lopez.

Pictured top right, from L to R; Sean Carmody, Terry Ging, Jim Crosby and Past President Bernie Caputo.

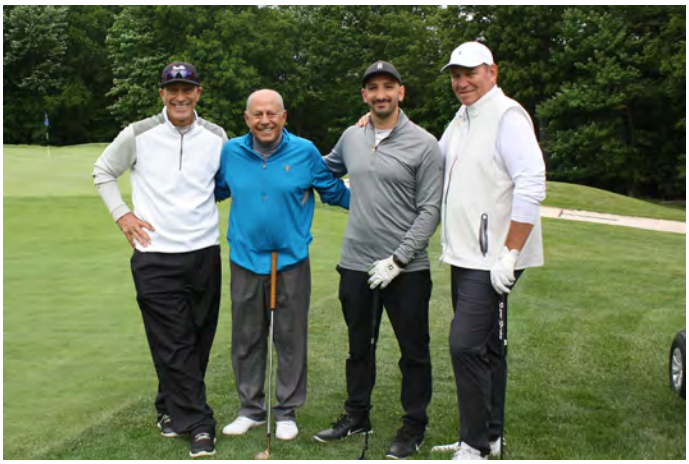
Pictured middle left, from L to R; Bill Chapas, Francis Pipak, Past President Rich Schubert.

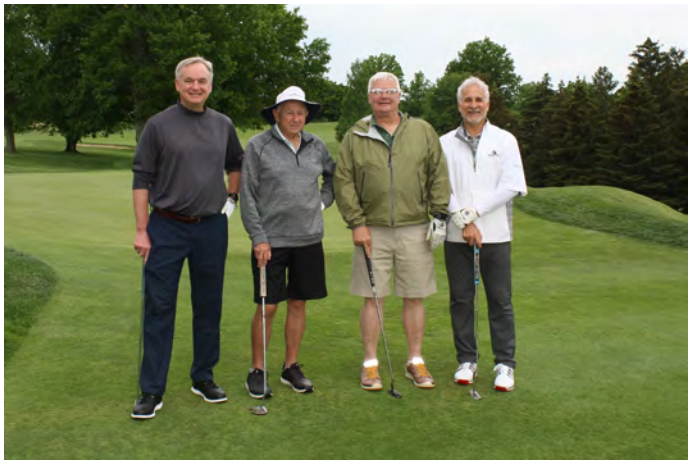
Pictured middle right, from L to R; Tim Chiappetta, Bob Daley, Scott Simon and Mark Troyan.

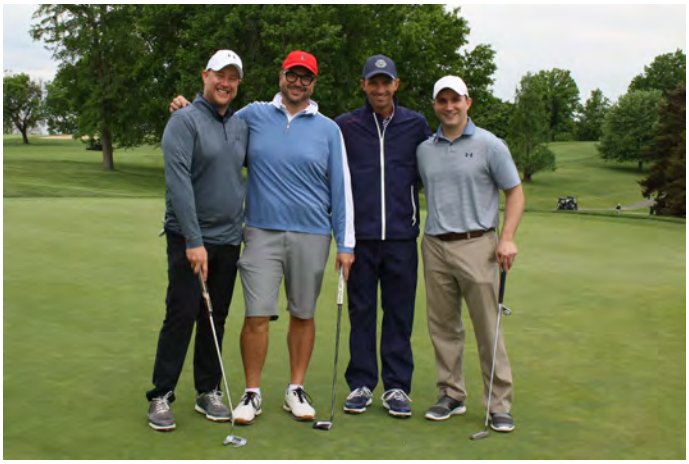
Pictured bottom left, from L to R; Past President Josh Geist, Gary Ogg and Past President Bill Goodrich.

Pictured bottom right, from L to R; Bruce Gelman, Brandt Gelman and Secretary Greg Unatin.

28TH ANNUAL ETHICS & GOLF OUTING PHOTOS







Pictured top left, from L to R; Past President Mark Homyak, Bill Flannery, Phillip Clark and Brian Gastaldi.

Pictured top right, from L to R; Past President Larry Kelly, Wynn Hasson, Greg Rosatelli and Joe George.

Pictured bottom left, from L to R; Richard Kelly, Business Partner Don Kirwan of Forensic Human Resources, John Linkosky and Mark Aletto.

Pictured bottom right, from L to R; Business Partner Mark Melago of FindLaw, Past President and Board of Governors Member Bryan Neiderhiser, Brad Holuta and Board of Governors Member Russell Bopp.

We hope you'll join us for next year's Ethics & Golf Outing!

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Please remember that our Business Partners are not "sponsors" of our organization – they are our Partners! It is our duty as members of WPTLA to be good partners to our Business Partners, as they have been good partners to us. Our Business Partners do not expect exclusivity – but they appreciate and value the business we give them. If you have a professional need in an area covered by a Business Partner, please give them your business whenever possible. If you have any experiences with a Business Partner, good or bad, please share your experiences with Chairs Larry Kelly (724-658-8535) or Eric Purchase (814-833-7100) so that we can work to make the program as beneficial as possible to our membership and to the Business Partners.

WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION
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Through the Grapevine....

President's Club Members Chris Miller and Shawn Kressley, and **General Member Brian DelVecchio** have moved the office of DelVecchio & Miller, LLC to 428 Boulevard of The Allies, First Floor, Pittsburgh 15219.

President's Club Member Patrick Loughren has moved the office of Loughren Loughren & Loughren, P.C. to 8030 Rowan Road, Suite 601 Rowan Towers, Cranberry Township, 16066