THE WESTERN PENNSYLVANIA TRIAL LAWYERS ASSOCIATION'S

THE ADVOCATE

Volume 28, No. 3
Spring 2016

JUDICIARY DINNER 2016 PREVIEW

*By: Elizabeth Chiappetta, Esq.***

Spring has (almost) sprung! I don't know about you, but spring brings thoughts of birds chirping, flowers blooming, sunshine, and…the Western Pennsylvania Trial Lawyers Association's Annual Judiciary Dinner! This year's Judiciary Dinner will be held on Friday, May 13, 2016 at Heinz Field's new PNC Champions Club. Additionally, this year will mark a slight change to the format of the event, and WPTLA will present its inaugural Champion of Justice award. It is the hope of the organization to make some fresh modifications and additions to the event, in hopes to increase interest and attendance at the already popular Judiciary Dinner.

Heinz Field's PNC Champions Club is a new event space at Heinz Field, which opened for the 2015 Pittsburgh Steelers season. The space is located "underneath" the large scoreboard, on the "river side" of the stadium. It is located at ground level. It is furnished with an outdoor patio space – no, we can't venture onto the field! – and a fireplace area near the bar. The room looks onto the field, with large, bright windows, which can open to the outdoors. It sounds like a great place to spend a nice Friday night in May, and we hope that all in attendance like the new space.

This year also marks a slight change to the program, wherein WPTLA will simply acknowledge all of the judges from Western Pennsylvania who have retired or achieved senior status within the last calendar year, without the need for an acceptance speech or introduction to the audience. Instead of asking judges to attend and receive the award, the Board of Governors of WPTLA has agreed to modify the dinner and eliminate that portion of the program.

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UPCOMING EVENTS FOR WPTLA

Come to **New Castle Country Club** on **Tuesday, April 19, 2016** for CLE and a reception. CLE provided by Business Partner Chris Finley of Finley Consulting & Investigations.

The Annual Judiciary Dinner is scheduled for **Friday, May 13, 2016**. We'll be in the new PNC Champions Club at Heinz Field.

20th Annual Ethics Seminar and Golf Outing will be held on **Friday, June 3, 2016** at the **New Castle Country Club**.

President
Lawrence M. Kelly

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A Message from the President …

*By: Lawrence M. Kelly, Esq.***

As an officer of WPTLA one of the duties that I enjoy the most is going to the University of Pittsburgh School of Law and speaking with the law students about joining our organization as a junior member.

In doing so I tell them that being a trial lawyer is the closest thing to athletic competition that I know. I played baseball in college; some even suggested that my major was third base, and not English, as I reported when anyone asked. I love competition, so being a trial lawyer was a perfect fit for me.

I tell the students that being a trial lawyer gives you the opportunity to flip the bat as is often seen in Major League Baseball when a batter hits a homerun. There is nothing more satisfying than a big verdict after a long trial when you get to come back to your office and "flip the bat" with your fellow co-workers.

However, I also tell them that just like a baseball game there will be times that, despite your best effort, you will strike out. Trial lawyers, like athletes, must be mentally tough. The career of a trial lawyer is not for the faint of heart. That's why less than ten percent of all lawyers in America can say that they've tried 10 or more cases to verdict.

The toughest thing in the world to do is to totally invest yourself into an endeavor, fail, and then get up and do it again. Most lawyers can't invest 100 or more hours in a case, only to lose, and then say I'm going to do this again. Maybe we're all crazy.

But the one aspect of being a trial lawyer that I appreciate most is that it allows one to define oneself.

I graduated from law school in 1983. Most of the law students that I talk to weren't even born then. I tell them that I thought that I was a big deal coming out of law school and that the big law firms would be lined up to hire me. I graduated in the top 10 percent of my class; I was an editor of the law review; I was published and I was a member of the mock trial team that competed in the national competition. I was really impressed with myself. Too bad nobody else was impressed.

When my daughters, who graduated from Pitt Law and who are working for "big firms" asked me how many offers I had after graduation my answer was always the same. "Close your eyes and what do you see," I would say. "We don't see anything dad," was their response. That's because I had zero offers.

By now you're asking, "Where is he going with this?"

Here's where I'm going. I tell the law students that don't ever let anybody define you! You define yourself! Just because some "big law firm" doesn't have a job waiting for you after graduation don't let them define you.

By becoming a trial lawyer you get the opportunity to define what type of lawyer you will be. By fighting for people who can't fight for themselves you get the opportunity to show the big boys that maybe they made a mistake by trying to define you as not worthy of that corner office and six figure salary.

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JUDICIARY DINNER … *(Continued from Page 1)*

It was the opinion of the Board of Governors that many judges felt compelled to attend, and many judges did not understand that they were being honored, such that attendance of honorees began to wane over the last several years. WPTLA will still acknowledge the judges who have achieved retirement and/or senior status, along with all members of the judiciary in attendance, but there will be no expectation of an acceptance speech or the need for a specific honor bestowed on a particular judge. The dinner will in essence be a way to honor all of the Judiciary in our area, and truly be a celebration of all of the jurists who we encounter through trials and motions practice.

The inaugural Champion of Justice award will also be bestowed on long time WPTLA member from Butler County, Warren Ferry, Esquire. Warren has been an active member of our organization for many years, and has announced that he is retiring from the practice of law and moving to Florida for part of the year. As a dedicated member of our organization and the Plaintiff's bar in general, there is no one who deserves this award, let alone the first bestowal of this award, more than Warren. We will wish Warren the best at the dinner, and will send him off to Florida knowing how much we will all miss him and how much we have looked up to him over the years. Congratulations Warren!

Invitations for the Dinner will be arriving in your mailboxes within the next several weeks. The Essay Contest Scholarship winners, along with our presentation of the proceeds from the 5K to the Steelwheelers and the Daniel M. Berger Service Award will still be part of the program. And, the best news of all – there is no Pirates game on the night of the dinner! Hope to see you all there.

** *Liz is a WPTLA Member from the firm of Robert Peirce & Associates, P.C. Email: echiappetta@peircelaw.com*

THE ADVOCATE

ARTICLE DEADLINE and PUBLICATION DATE

VOLUME 28, 2015-2016

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Vol 28, No. 4 Summer 2016	Jun 6, 2016	Jun 20, 2016

PRESIDENT'S MESSAGE *(Continued from Page 2)*

When you get to flip the bat after a big verdict or a family tells you that you've made a meaningful difference in their lives, then you and only you, have defined yourself.

This issue features many of our junior members. I would hope that they become trial lawyers. I would hope that they don't get discouraged if they, like me many years ago, have few if any job offers waiting for them after graduation.

I would hope that they never ever let anybody define them. By becoming a trial lawyer you get the opportunity to define yourself. As they say in the Nike commercial – Just do it.

** *Larry is a WPTLA Member from the firm of Luxenberg Garbett Kelly & George, P.C. Email: lkelly@lgkg.com*

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CREATING A WIN-WIN FOR WPTLA AND OUR JUNIOR MEMBERS

*By: Bryan Neiderhiser, Esq.***

As we have all heard and read, membership in Bar Associations and other legal associations has been declining in recent years. Unfortunately, WPTLA has not been immune to this trend. Decreasing membership numbers affects the strength and efficacy of any organization. Moving forward, it is important that we have an active and engaged membership if we wish to remain effective and relevant to trial attorneys in western Pennsylvania. Another problem that many organizations often face is a lack of involvement and active participation from its members. Again, WPTLA is not immune to this problem. That is why our junior members are so important to our organization. Simply stated, junior members are vital to the future sustainability of our organization and encouraging junior membership is a great way to stem the trend of decreasing membership and to foster active involvement from our membership.

But how do we attract junior members to our organization? The answer is simple; in order to attract these members, we must make the benefits of junior membership and a subsequent regular membership obvious and appealing. Larry Kelly, our current President, has gone to great lengths to try to increase the number of junior members by stressing the incentives of junior membership. Paramount among those benefits is the mentorship program. Under this program, each of our junior members is assigned a mentor from our membership. This program is valuable because many of our junior members may hang out their own shingles or may go to work at law firms that do not have a primary focus on personal injury litigation. Therefore, by the time that a junior member enters the practice of law, he or she has already established a personal relationship with an experienced personal injury trial attorney. With this relationship, the answer to a legal issue is one phone call or email away. As we all know, the practical wisdom that can be handed down by an experienced attorney cannot be replaced by any book or research tool.

Junior membership is a non-voting membership level that is available to law clerks and to students who are attending a law school and who have an interest in litigation. A junior membership is available for $35.00 per year. In addition to the mentorship program, a junior membership also provides publication opportunities in The Advocate and free attendance at the LeMont dinner meeting. The benefits that WPTLA is providing as a part of this membership appear to be working because our junior membership has grown from three (3) members last fiscal year to twelve (12) members this year. However, we need to continue to work to increase the number of our junior members. Ideally, each and every WPTLA member should be a mentor to at least one junior member.

The value that the mentorship program provides to junior members is obvious. The ability to talk to an experienced lawyer who can provide insight regarding local practice, or who can provide a quick answer to a question regarding a legal issue that a less experienced attorney could spend hours researching is invaluable. Every young lawyer would be thrilled to have the opportunity to have an experienced litigator willing to answer questions with a simple telephone call or email. This is especially important to attorneys that hang their own shingle and to those who are hired by firms that do not focus on personal injury law. However, the value of the mentor/mentee relationship is no less beneficial to the mentor. Obviously, not all junior members will practice in the area of personal injury law for their entire careers. Regardless, the mentorship program provides both the mentor and the mentee with an opportunity to build a lasting relationship. Therefore, even if a junior member ultimately chooses to practice in a different field of law, the relationship between mentor and mentee could result in a long lasting referral relationship. Why wouldn't you refer cases to someone who was willing to spend time answering the questions that you had as a young lawyer?

However, we need to continue to actively encourage the growth of junior membership in WPTLA. For instance, WPTLA members should contact, interview and give preference to our junior members for internship programs at our practices. By becoming junior members, these individuals have already expressed a desire to practice in, and have shown a commitment to, personal injury law so considering junior members as potential employees is a win-win for all involved.

While we are encouraged by the growth of our junior member program, we need to continue to see that number grow by leaps and bounds. Sending emails and letters to the local law schools simply isn't enough to obtain new members. Instead, we need to continue to go to the law schools and speak to the students involved in the trial advocacy programs. If you have any connection with the local law schools and the trial advocacy programs in particular, please contact WPTLA and offer to go to these classes and speak about junior membership. Our junior members really are the lifeblood of our organization.

Maintaining the strength and relevance of WPTLA does not end by simply gaining junior members. Rather, that is only the first step towards our ongoing

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CREATING A WIN-WIN … (*Continued from Page 5)*

sustainability. We need to encourage our junior members to continue their memberships after graduation from law school or after their clerkships end. To do this, we must continue to make membership important and beneficial to our general membership. WPTLA is trying to accomplish that objective on many levels. Over the past couple of years, WPTLA has provided CLE's from nationally recognized speakers. Just last month, WPTLA provided a Reptile based seminar that drew a large crowd. Last year, we were able to host a CLE by nationally recognized speaker Mark Kosieradzki. Additionally, the Plaintiff only database should be active in the coming months. This database will serve as a source for members to obtain form pleadings, deposition transcripts, motions, briefs, and so on. As an organization, we recognize the need to provide benefits to our members, especially during this time when membership in legal organizations is declining. We recognize that today's junior members are the future members and leaders of this organization. Quite simply, an organization that doesn't have young members is a dying organization. Therefore, as members of WPTLA, we all have a responsibility and a duty to work to further WPTLA's goals and supporting our junior members is a great way to ensure the continued vitality of this organization.

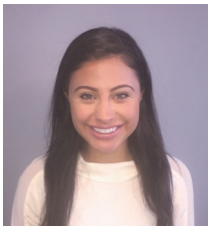
** *Bryan is a WPTLA Member from the firm Marcus & Mack, P.C.*
mail: bneiderhiser@marcusandmack.com

JUNIOR MEMBER PROFILES

Name: Taylor Isaac
Law School: University of Pittsburgh School of Law
Year in Law School: 1L
Undergrad School and Graduation Year: Oklahoma State University, May 2015
Undergrad Major: Sociology with a minor in Psychology
What made you want to go to law school? I have always had an interest in the technicalities of the law. Whether I pursue public interest or something in the private sector, knowing the in's and out's of the law will help me succeed and hopefully contribute to improving any flaws in the system.

Name: Ashley Majorsky
Law School Attending: University of Pittsburgh School of Law
Year in Law School: First Year
Undergrad School and Graduation Year: Carlow University, December 2011
Undergrad Major: BS in Accounting, BS in Forensic Accounting
What made you want to go to law school? I choose to pursue a career in law after working closely with numerous attorneys as a business valuation analyst specializing in marital litigation. I noticed my interest straying away from the financial aspect of business valuations and becoming more interested in case law analysis surrounding litigation.

Name: Adam Murdock
Law School Attending: University of Pittsburgh School of Law
Year in Law School: 1L
Undergrad School and Graduation Year: Duquesne University, 2015
Undergrad Major: English with a concentration in writing and a minor in business
What made you want to go to law school? I have always known that I wanted to become a lawyer. I have always had an interest in the law so it only seemed logical to attend law school. Originally, I wanted to work as a sports agent but my goals have slightly changed and my ultimate goal would be to work in sports law in general.



Name: Gianna Kelly
Law School Attending: University of Pittsburgh School of Law
Year in Law School: 2L
Undergrad School and Graduation Year: University of Pittsburgh, 2014
Undergrad Major: Marketing
What made you want to go to law school? My dad, Larry Kelly, is an attorney and so I have grown up being familiar with the law. Being able to see how important his job was in the lives of his clients really inspired me and made my decision to go to law school an easy one. I was also very motivated by both of my parents because they always stressed to me the importance of being able to "think like a lawyer" and how beneficial a law school degree is, no matter what career path you ultimately end up choosing.

Name: Corey A. Bauer

Law School : University of Pittsburgh

Year in Law School: 2L

Undergrad School and Graduation Year: Kent State University, 2014

Undergrad Major: Political Science – Comparative Politics

What made you want to go to law school? When I was in my junior year of undergrad, I read the book "Once Upon a Time in Los Angeles." It told the story of Earl Rogers' incredibly successful, albeit short, career in trial law. I had always debated going to law school, and even was a member on the mock trial and debate team, but that book was the deciding factor. The next week I signed up for the LSAT and the rest is history.

Name: Joshua Nyarko

Law School Attending: University of Pittsburgh School of Law

Year in Law School: Second

Undergrad School and Graduation Year: Morehouse College, 2013

Undergrad Major: Business Administration

What made you want to go to law school? I decided to go to law school because I really enjoyed my mock trial experience in high school. I really enjoyed the competitive nature of the trial competition, going through the case files, preparing for and giving a closing argument as well as conducting a cross-examination.

Name: Victor Kustra

Law School Attending: University of Pittsburgh School of Law

Year in Law School: 3L

Undergrad School and Graduation Year: Slippery Rock University, 2014

Undergrad Major: Criminal Justice

What made you want to go to law school? I chose to go to law school to be part of a profession that will allow me to make a difference, and really do something that matters.

Name: Shriram (Preferred first name: Ram) Thirumalai Eachambadi

Law School Attending: University of Pittsburgh School of Law

Year in Law School: First year

Undergrad School and Graduation Year: California State University, Los Angeles, December 2004

Undergrad Major: Business Administration (emphasis in accounting)

What made you want to go to law school? I became interested in law when I was doing a graduate tax program at University of Denver. Reading cases and interpreting tax laws created that interest. However, my interest in law grew far beyond what initiated my interest, and I became less interested in the accounting world where I felt work was routine, less challenging, and largely relied on mastering the use of a software. I had become interested in litigation to some extent, although I have kept an open mind upon entering law school. I believe litigation has a lot to do with the power or skill to persuade and that interests me. After a semester, I have come believe that litigation is in fact the path I want to take, and have become more interested in it. Although I still do not want to be rigid in my choices yet, I have taken a decision to also pursue the litigation certificate at Pitt Law. I believe my unique experience with taxation combined with experience and knowledge in litigation will give me a unique advantage because of my diversified set of skills.

Name: Jonathan Niznansky

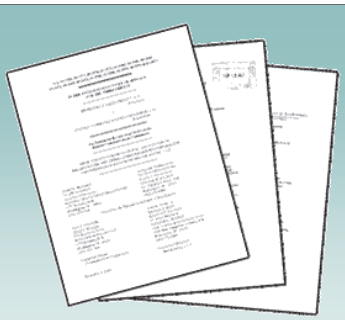
Law School Attending: University of Pittsburgh School of Law

Year in Law School: 1L

Undergrad School and Graduation Year: University of Maryland, 2015

Undergrad Major: History

What made you want to go to law school? I've always wanted to be a lawyer; in a courtroom is where my skills and my interests overlap.



We Need Article Submissions!!

This publication can only be as good as the articles that are published, and those articles come from our members. Please contact our Editor, Erin Rudert with any ideas you have, or briefs that could be turned into articles. Erin can be reached at 412-338-9030 or er@ainsmanlevine.com

ETHICS AND GOLF

By: Charles Alpern, Esq.

WPTLA's long standing Ethics Seminar and Golf is moving from the traditional pre-Memorial Day Thursday to a **Friday afternoon on June 3, 2016**.

This year's event will be held at **New Castle Country Club**, tentatively starting at 11:30 a.m. with **Rich Schubert's** always enlightening **Ethics Seminar**, to be followed by **golf, cocktails and dinner**.

Changing to a June date will eliminate Memorial Day Weekend conflicts, and hopefully allow more of our members to participate at this event which is always well attended by our **Business Partners**.

Please be sure to SAVE THE DATE!

BUSINESS PARTNER UPDATE

A hearty welcome to **Dave Kassekert** of **Keystone Engineering**, who joins our Business Partner program. Dave can be reached at 866-344-7606 or dwkassekert@forensicexp.com.

KEYSTONE
ENGINEERING CONSULTANTS, INC.
Forensic Engineering / Architecture / Biomechanics

Keystone Engineering replaces Robson Forensic as a Business Partner.

Another hearty welcome to **CAM Group LLC** and **Cindy Miklos** as a new Business Partner. CAM Group can help you with Unique Marketing and PR Solutions. You can reach Cindy at 412-334-5465 or cindy@camgroupmarketing.com.

http://www.camgroupmarketing.com/

MEMBER PICTURES & PROFILES

Name: Jim Moyles

Firm: Moyles Law Firm

Law School: Ohio Northern College of Law

Year Graduated: 1979

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

Tell us something about your practice that we might not know: Sinkhole Litigation

Most memorable court moment: When I was able to get under the skin of the expert so much that he cracked and said the guy would have driven through the Chinese Wall (Traffic Signal vs SS case)

Most embarrassing (but printable) court moment: first Civil Jury Trial when I failed to examine carefully each item of invoice my contractor client provided. Defense cross examine yielded receipts for TV's Stereo's etc etc. Needless to say ever since I carefully examine EVERYTHING

Most memorable WPTLA moment: Really just the fun and collegiality

Happiest/Proudest moment as a lawyer: Recently met with a former client's wife(MVA)and he stopped in to say hello and tell me how the recovery from his case(10 years ago)allowed him to move on with his life an accomplish his goals

Best Virtue: Honesty

Secret Vice: Cherry Pie

People might be surprised to know that: I have been doing this for 37 years

Favorite movie: Verdict

Last book read for pleasure, not as research for a brief or opening/closing: Finest Hours

My refrigerator always contains: Milk

My favorite beverage is: Vodka

My favorite restaurant is: Joseph Tambellini's

If I wasn't a lawyer, I'd be: History Teacher/Basketball Coach

BY THE RULES

*By: Mark E. Milsop, Esq.***

After having been suspended for a period of time, Rule 230.2 concerning the termination of inactive cases has been reinstated with modifications.

The most significant change rests on a single word, the change from may to shall.[1] As such, the once optional rule is now mandatory in all of Pennsylvania Counties. This means that every county must now initiate proceedings at least once a year to terminate inactive cases. The rule also requires reporting of this event to the Administrative Office of the Pennsylvania Courts.

A second significant change is that the time frame involved has changed. Accordingly, notice is now to be served thirty days before the date of the proposed termination rather than the sixty days previously specified by the rule. This is somewhat offset by the fact that practitioners now have sixty days after entry of a termination order within which to Petition to reinstate the action.

The new rule also changes the notice requirement somewhat. The previous version of the rule provided that the notice was to be served by mail. The new version now allows service to be served electronically pursuant to Rule 440 upon counsel at the last address of record and on the parties. The note provides that if the notice is returned, the prothonotary "should" check the website of the Disciplinary Board of the Supreme Court. Of course, the time for return, checking the website and remailing the notice may exceed the thirty day notice period. It is also noted that unless it is later held that the procedure of checking the Disciplinary Board website and remailing the notice is required for due process, or otherwise interprets "should" as mandatory, there may be no remedy when that does not occur.

Importantly for those receiving a notice of proposed termination, the reinstated rule provides for the filing of a "Statement of Intention to Proceed" on or before the date of proposed termination. A form is provided in the rule.

As alluded to above, the rule does provide for a sixty day safe harbor filing a Petition to Reinstate. If the Petition is filed within the sixty day period, the court "shall grant the petition and reinstate the action." Of course, there may be some issue as to what is meant by filed. A literal reading of the rule suggests that filing with the prothonotary is adequate. However, some may argue that it needs to also be presented to the Court within that period.

For those who wish to reinstate after the sixty day safe harbor, the Petition must aver and must be able to show that it meets a familiar three prong test of (1) timely filing (2) reasonable explanation or legitimate excuse for the failure to file both the intention to proceed and the Petition to Reinstate within 60 days.

Cases may only be reinstated one time upon Petition.

The rule also allows that court to schedule a status conference to establish timelines where a statement of intention to proceed has been filed.

DISCOVERY SANCTIONS

A recent non-precedential decision, *Haas v. Reinert*, No. 1424 MDA 2014 serves a reminder that the harsh sanction of dismissal, or its equivalent, as a discovery sanction should only be granted in the rarest of cases. In *Haas*, as the result of two discovery sanction orders[2] (there were a total of two motions to compel and two motions for sanctions) the trial court precluded the introduction of any evidence of liability or damages. The orders then formed the basis of a motion for summary judgment which was granted. Although the Superior Court's decision reversing the summary judgment is non-precedential, it is comforting to see that the Court was willing to follow long established precedent.

In analyzing the issue, the panel[3] began its analysis by referring to *Steinfurth v. LaManna*, 590 A.2d 1286 (Pa. Super. 1991) for two important propositions. First, "the sanction must be appropriate when compared to the violation." *Id*. At 1288. Second, the court will "strictly scrutinize the appropriateness of the sanction as it produces the harshest result possible and should

[1] The redlined version of Section (a) of the rule states:

> (a) At least once a year, [T]the court [may] shall initiate proceedings to terminate [a] cases in which there has been no activity of record for two years or more [by serving a notice of proposed dismissal of court case], and shall report such information to the Court Administrator of Pennsylvania on a form supplied by the Administrative Office of Pennsylvania Courts or in such format as requested from time to time by the Administrative Office of Pennsylvania Courts.

[2] The discovery at issue included a fourth set of interrogatories concerning the plaintiff's experience driving a motorcycle and a fifth set concerning tax documents. With respect to the tax documents, it should be noted that plaintiff's counsel had orally indicated that wage loss/capacity would not be pursued. Plaintiff's counsel also pointed out that the plaintiff had sat for three hours of deposition and provided 800 pages of discovery. According to the opinion there were two motions to compel and two motions for sanctions.

[3] The Panel included Judges Wecht, Bowes and Senior Judge Fitzgerald.

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BY THE RULES *(Continued from Page 10)*

be imposed only in extreme circumstances." *Id*.

The *Haas* Court next reaffirmed that in imposing sanctions, a court should utilize the four factors set forth in *City of Phila. v. FOP Lodge No. 5 (Breary)*, 604 Pa. 267, 985 A.2d 1259 (2009). These factors include (1) prejudice to the non-offending party and the ability to cure the prejudice, (2) Willfulness or bad faith in filing to provide discovery, (3) the importance of the excluded evidence and (4) the number of discovery violations. *FOP Lodge*, 985 A.2d at 1270-71.

Although getting to the point where a motion for sanctions is being presented should be avoided, where there are circumstances that place you in such a position, case law offers you a basis upon which to oppose sanctions and protect your client's interest. Hopefully, if you find yourself defending against a motion for sanctions, you will find this article a handy reference as a starting point.

** *Mark is a WPTLA Member from the firm of Berger and Green.*
Email: mmilsop@bergerandgreen.com

TRIVIA CONTEST

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

Trivia Question #6

The Walker Law, passed in 1920 in New York, was a law regulating which sport?

Please submit all responses to Laurie at admin@wptla.org with "Trivia Question" in the subject line. Responses must be received by May 26, 2016. Prize for this contest is a $100 Visa gift card. Winner will be drawn May 27, 2016. The correct answer to Trivia Question #6 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 #5 - **In the film, Casablanca, Humphrey Bogart used the same line four times. What was that line? Here's looking at you, kid.**

Congratulations to Question #5 winner Rich Schubert, of AlpernSchubert in Pittsburgh.

As we move into spring and on to summer, here are 10 things to remember...

1. You woke up, be grateful.
2. Look people in the eye and smile.
3. Sing your favorite song out loud.
4. Be open to possibilities. Miracles are happening everywhere.
5. Never waste an opportunity to tell someone you love them.
6. Be brave. Even if you're not, pretend to be. It helps.
7. Count your blessings, not your burdens.
8. Make it a habit to do something nice each day for someone else.
9. Become the most positive and enthusiastic person you know.
10. Live your life so that your epitaph reads: No Regrets.

-John Ashcroft

COMP CORNER

*By: Thomas C. Baumann, Esq.***

Social Security Offset

Many injured workers suffer injuries sufficiently disabling to entitle them to Social Security disability. In Pennsylvania workers who are receiving Worker's Compensation benefits often face a reduction in Social Security disability benefits. The Social Security Act requires a reduction in disability benefits so that in combination with Worker's Compensation benefits, the two benefits combined do not exceed 80% of the worker's average current earnings. Historically, once the injured worker reached age 65, the offset would end as the benefit converted to a retirement benefit. That has now changed due to an act of Congress. Congress has brought the disability offset provision into line with the increased retirement age.

PL 113 – 295, § 201 (December 19, 2014) amended 42 USC § 424a to provide that the offset provisions shall apply until the injured worker reaches his or her full retirement age. This became effective December 19, 2015. Therefore, as the full retirement age eventually rises to age 67, the offset shall continue to apply.

The changes in the law can benefit older injured workers for purposes of settlement. Previously, the claimant may have felt pressured to settle his case before age 65 because his Social Security disability benefits would convert to retirement benefits. Claimant would then face a reduction in the worker's compensation benefits because of the statutory Social Security offset. The delay to the full retirement age for any conversion to retirement benefits will buy all injured workers additional time as a result. Claimants will have better leverage to negotiate a proper settlement.

Subrogation applies to recovery for uninsured motorist claim against coworker's policy

The Commonwealth Court has extended the line of cases granting subrogation in uninsured/underinsured motorist recoveries where the injured worker has not paid for the benefit. The court recently decided *Davis v. WCAB (PA Social Services Union)*, No 216 C. D. 2015, where the employer sought to offset workers compensation benefits with the settlement obtained by the claimant from an uninsured motorist policy.

In *Davis*, the claimant was a passenger in a vehicle owned and operated by her coworker. She received Worker's Compensation benefits for her injuries. She filed an uninsured motorist claim under the policy owned and paid for by her coworker. She received $25,000 from said policy. The employer/carrier sought subrogation against the recovery.

The worker's compensation judge and the Worker's Compensation Appeal Board concluded that the employer/carrier was entitled to subrogation under § 319 of the Worker's Compensation. Claimant appealed to the Commonwealth Court, raising the sole issue of whether employer/carrier was entitled to subrogation for payments from the policy for which it did not pay.

The Commonwealth Court analyzed pre-existing cases going back to *Gardner v. Erie Insurance Company*, 456 Pa. Super 563, 691 A.2d 459 (Pa. Super.1977) *aff'd* 555 Pa. 59, 722 A.2d 1041 (Pa. 1999), through *Hannigan v. WCAB (O'Brien Ultra Service Station)*, 860 A.2d 632 (Pa. Commwlth. 2004) (*en banc*). Claimant's counsel, Bernard Caputo, had cleverly argued to the panel that the dissenting opinions in *Hannigan* constituted the proper way to rule in Davis' case. Two of the members of the *Davis* panel offered dissents in the *Hannigan* case. However, Judge Friedman, writing for the court, felt constrained by the existing case law. After going through all the case law dealing with the issue, the panel in *Davis* concluded that the claimant can only escape subrogation when he or she pays for the policy producing the uninsured/ underinsured recovery. In all other instances, § 319 the act requires subrogation against settlement proceeds of this nature.

Mr. Caputo has sought allowance on this issue.

** *Tom is a WPTLA Member from the firm of Abes Baumann, P.C. Email: tcb@abesbaumann.com*

HOT OFF THE WIRE

*By: James Tallman, Esq.***

Waiver and Release of Liability/Death during Triathlon *Valentino v. Phila. Triathlon*, 2015 Pa. Super. LEXIS 862 (December 30, 2015) – reversed trial court's grant of summary judgment based on waiver and release of liability.

In *Valentino*, a widow brought a wrongful death action after her husband drowned while participating in the swimming leg of a triathlon. All triathlon registrants, including plaintiff's husband, were required to sign a waiver and release. Initially, the widow's complaint contained claims for punitive damages. The trial court sustained preliminary objections to the punitive damages claims and the action proceeded through discovery. After the completion of discovery, the sole remaining defendant moved for summary judgment, which the trial court granted. Plaintiff appealed to the Superior Court of Pennsylvania.

On appeal, the Superior Court affirmed the trial court's dismissal of the punitive damages claims and allegations of reckless and outrageous conduct on preliminary objections. The Superior Court then turned to the issue of whether summary judgment was properly granted based on the waiver and release of liability. The appellate court applied *Pisano v. Extendicare Homes, Inc.*, 77 A.3d 651 (Pa. Super. 2013) to hold that waiver and release of liability did not reach the wrongful death claim of decedent's wife. In *Pisano*, the court determined that a nursing home admission agreement that contained an arbitration clause did not apply to the wrongful death beneficiaries' claim for wrongful death. Similarly, the Superior Court held in *Valentino* that the waiver and release barred only the claims of the deceased husband, who had executed the waiver and release.

The Superior Court then turned to the appellant's argument that the waiver and release relieved appellant of any duty to plaintiff's husband. Thus, even if the wrongful death claim was not specifically barred by the waiver and release because it belonged to the beneficiaries, the claim could not survive because there could be no negligence or wrongful act to support the claim in the absence of any duty owed to the husband. In asserting this argument, Appellant relied on cases from California. The Superior Court rejected appellant's argument and the reasoning of the California cases. The court explained that such an approach would eviscerate the independent claim of the wrongful death beneficiaries. Instead, the Superior Court found that the better approach to be outlined by the New Jersey Superior Court in *Gershon v. Regency Diving Center, Inc.*, 845 A.2d 720 (N.J. Super. 2004). The *Gershon* court pointed out that under the approach of the California courts the rights of the intended beneficiaries of wrongful death claims would be eliminated before they even arise. This result would be inconsistent with the purpose of wrongful death claims. Quoting *Gershon*, the Superior Court explained that "the policy favoring settlement and finality of claims, cannot defeat statutory rights created for the protection of survivors of one wrongfully killed." *Id.* at 26. Essentially, following *Gershon*, the Pennsylvania Superior Court held that public policy interests protected by the wrongful death act outweigh a defendant's freedom to contract and operate free from the risk of litigation. Thus, the Superior Court rejected the argument that the decedent's waiver of liability and assumption of the risk acted as a complete defense to the wrongful death claims. The court concluded: "the release agreement was only between the decedent and appellee and has no effect on the decedent's non-signatory heirs including appellant." *Id.* at 27.

Nursing Home Wrongful Death/Arbitration *Burkett v. St. Francis Country House*, 2016 Pa. Super LEXIS 35 (Jan. 25, 2016) – affirmed denial of motion to compel arbitration of either wrongful death or survival action claims.

Burkett is the latest in a string of decisions by the Pennsylvania appellate courts regarding arbitration provisions in nursing home resident agreements. In *Burkett*, the Superior Court of Pennsylvania followed its 2015 ruling in *Taylor v. Extendicare Health Facilities, Inc.*, 113 A.3d 317 (Pa. Super. 2015), and affirmed the trial court's denial of the defendants' motion to compel arbitration based on an "Admission Agreement" that had been signed by the son of a deceased resident of defendants' facility. The action was initiated by the son and asserted wrongful death and survival action claims. After filing an answer and new matter that failed to raise the affirmative defense of arbitration, the defendants filed a motion to compel arbitration based on an arbitration provision in the Admission Agreement. The trial court denied the motion and defendants appealed.

On appeal, the Superior Court first determined that the defendants had not waived their right to assert arbitration by failing to plead it as an affirmative defense. The Superior Court acknowledged that pursuant to Pa. R.C.P. 1030 the right to arbitration should have been pled as an affirmative defense. The appellate court, however, held that consistent with the mandate to liberally construe the rules of civil

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HOT OFF THE WIRE *(Continued from Page 14)*

procedure, even though "nominally belated and procedurally inaccurate, [the failure to assert arbitration] did not affect the substantial rights of the parties, and therefore, the facility did not waive its right to compel arbitration by failing to set forth the assertion in new matter or preliminary objection." *Id.* at 5. The court also noted that a trial court's refusal to compel arbitration immediately appealable.

Turning to the scope of the arbitration agreement, the Superior Court discussed at length the Pennsylvania Supreme Court's decision in *Pisano v. Extendicare Homes, Inc.*, 77 A.3d 651 (Pa. Super. 2013). Despite the distinction that unlike in *Pisano* the plaintiff in *Burkett* was the signatory to the agreement at issue, the court determined that as in *Pisano* the wrongful death action was not subject to arbitration because the wrongful death claim belongs to the wrongful death beneficiaries not the decedent. The wrongful death beneficiaries did not agree to arbitration.

Next, the court addressed the most significant issue of the appeal—whether the survival action should be severed from the wrongful death action and subject to arbitration. With significant hesitation, the Superior Court held that it was constrained to follow *Taylor* and apply its holding that Rule 213(e) requiring consolidation of wrongful death and survival actions was not preempted by the Federal Arbitration Act. The majority opinion expressed disagreement with the analysis and holding of *Taylor*. Notwithstanding such disagreement, the majority felt compelled to follow *Taylor* until further ruling by the Supreme Court of Pennsylvania. Notably, Judge Bowes wrote a concurring opinion in which she disagreed with the majority's criticism of *Taylor*. It would seem an almost certainty that Pennsylvania Supreme Court will take up this important issue.

Fee Dispute *Angino & Rovner v. Lessin*, 2015 Pa. Super. LEXIS 2 (Jan. 5, 2016) – fee agreement providing for 20% of gross recovery obtained after dismissal of firm was not enforceable; quantum meruit was proper measure of dismissed firm's fee.

This action concerned a dispute between the law firm Angino & Rovner and a former client. Angino & Rovner was retained to represent an individual injured in a motor vehicle accident. The fee agreement stated that Angino & Rovner would be entitled to 20% of the gross recovery in the event the client terminated the agreement. The third-party claim was settled for the policy limits. Angino & Rovner then pursued a UIM claim, which was to be arbitrated pursuant to the policy. Prior to the arbitration, the client terminated his agreement with Angino & Rovner and retained new counsel. After receiving a substantial arbitration award, the client refused to pay Angino & Rovner the 20% of the gross recovery as agreed.

Angino & Rovner initiated a breach of contract action. The parties filed cross motions for judgment on the pleadings. The trial court denied Angino & Rovner's motion and granted partial judgment on the pleadings for the client. Angino & Rovner appealed to the Superior Court. The Superior Court held that the trial court properly granted the client's motion for partial judgment on the pleadings. The appellate court found that the client did not breach the contingency fee agreement purporting to obligate him to pay Angino & Rovner 20% of any future gross recovery if he terminated the firm, because under Pennsylvania law, an attorney can recover only on a theory of quantum meruit. Notably, however, the Superior Court explained that quantum meruit is not limited to simply multiplying hours worked by the hourly fee. A quantum meruit claim is equitable in nature and should be based on a fair assessment of the contributions of the discharged attorney to any eventual award in the case.

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Friday, April 19 2016 - Board Meeting, CLE and a Reception at the New Castle Country Club.

Friday, May 13, 2016 - Annual Judiciary Dinner, to be held in the **NEW** PNC Champions Club at Heinz Field.

Friday, June 3, 2016 - Annual Ethics Seminar & Golf Outing at New Castle Country Club.

Each year, WPTLA sponsors a Scholarship Essay Contest for high school seniors in the Western District of PA. Three winning essays are chosen by a committee as the best of those submitted. These winners are invited to attend the Annual Judiciary Dinner, where they are presented with a certificate of their achievement, along with a $1,000 scholarship award. Last year's high school students were asked to write an essay discussing their opinion in a fictional case on the issue of whether or not the State's denial of the application for Special Organization License Plate submitted by the Hands Up 4 Peace is an unconstitutional violation of the First Amendment or whether such control is permissible in light of the State's role in issuing the license plates. Below is the one of 2015's three winning essays.

In 1788, our United States government came into existence with the ratification of the Constitution. Before the people allowed this document to become law, they insisted that a series of amendments be written to protect the freedoms of individual citizens. Among these, the first and foremost declared that "Congress shall make no law ... abridging the freedom of speech ... " Since then freedom of speech has been recognized as one of the core American values, a pillar that the definition of American Freedom is based on. When a group of people want to send a message in America the law is almost always on their side. So when Hands Up 4 Peace chooses to promote its message of " ... peaceful conflict resolution and racial diversity awareness through community outreach and youth programs," it is within their rights to proclaim that message. To restrict them is to violate the First Amendment.

The State Department of Transportation attempts to defend its right to silence the message of Hands Up 4 Peace by citing a policy of prohibiting plates that are "offensive in purpose," but the promotion of diversity and tolerance through public works offensive? This same department claims a right "to deny any application for plates designed to include the expression of ideas or points of view." Can a state have such a right? Can any government organization in America attempt to exercise this power that flies in the face of one of the most sacred principles of the Constitution, the supreme law of our land? The State's arguments are imagined powers that violate the First and Fourteenth Amendments. The idea that a benign message such as that of Hands Up 4 Peace could be suppressed is unfair, immoral, and above all, it is unconstitutional.

There are very few exceptions to the First Amendment, and this situation is not one of them. License plates have been dealt with as a form of speech in several previous cases(*Walker* v. *texas Sons of Confederate Veterans, Wooley* v. *Maynard, Berger v. ACLU of North Carolina).* First Amendment rights may be suspended in the case of offensive language *(Chaplinski* v. *New Hampshire),* but is the license plate in question offensive? The Hands Up 4 Peace moto, and the source of the State's apparent offense, is "the promotion of peaceful conflict resolution and racial diversity awareness through community outreach and youth programs." This organization is doing the same thing as every other nonprofit in America; they are promoting a position through community interaction. If one is to be offended by this, then one should be offended by all nonprofits, so why is it that the State permits some nonprofits to have specialty plates? The State's policy equates to viewpoint discrimination.

When the State began issuing Special Organization License Plates, it opened up a new form of expression. The simple automobile license plate could now carry any message communicable by the written word itself. As long as this plate can be offered to all Special Organizations, it promotes the freedom of expression and publication for nonprofit groups. However, when the State tries to reserve the right to prohibit any plate that expresses ideas, they are enacting a policy tantamount to discrimination. Inevitably, some ideas will be deemed permissible to become license plates while others will not be, and the thus the State begins censoring organizations based on its definition of acceptable.

Our country was built on the idea of equality and freedom. When the First Amendment guarantees free expression, the guarantee extends to everyone. If the State wants to offer a license plate service to nonprofit organizations, then the service should actually be available to all nonprofit organizations. Hands Up 4 Peace fulfills every requirement for this program. It is a nonprofit group by every possible definition. The only thing standing in its way is the idea that their licence plate and logo could be "offensive." The subjectivity inherent in the effort to filter potentially unpopular language leads to arbitrary restrictions like the one we have here. The State may have the authority to issue license plates, but to issue them based on these criteria is an attack on expression and therefore to first Amendment.

It has been determined elsewhere that rejecting certain license plate designs discriminates against the ideas of those organizations. The Fourth Circuit Court of Appeals ruled that North Carolina was in violation of the First Amendment when they maintained a specialty license plate program which refused to offer "Pro-Choice" plates. The decision cites *Citizens United* v. *Federal Election Commision,* which states that the First Amendment was "premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints." Both of these decisions assert that the right of free speech cannot be abridged asymmetrically, all viewpoints need equal opportunity for expression.

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Walker v. *Texas,* has also upheld the right of the organization in this debate. The court ruled that the Texas Sons of Confederate Veterans had the right to produce a license plate featuring the Confederate flag. The court ruled that to do otherwise would constitute "viewpoint discrimination" against the organization's personal beliefs. the precedent of *Walker* v. *Texas* reaffirms the use of specialty license plates for free speech, as well as

Hands Up 4 Peace qualifies in every way to receive a specialty license plate from the State. The idea that they can be restricted because they are trying to express beliefs, any beliefs, goes against the very principles that this nation was founded on. The mission of Hands Up 4 Peace is benign and inoffensive, so it should be guaranteed protection under the First Amendment. It has been decided that the First Amendment provides equal legal protection to all speech and that specialty license plates are a form of speech. Therefore the restriction of Hands Up 4 Peace's specialty license plate is an egregious violation of this organization's First Amendment rights and cannot be allowed to continue.

Submitted by:
Douglas Smith, of Maplewood High School

Don't agree with what you've read? Have a different point of view?

If you have thoughts or differing opinions on articles in this issue of The Advocate, please let us know. Your response may be published in the next edition.

Also, if you would like to write an article about a practice area that you feel our members would benefit from, please submit it to Editor Erin Rudert.

Send your articles to er@ainsmanlevine.com

BUSINESS PARTNER BLAST

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Dear Member:

Advocate editor Erin Rudert invited Business Partners like us to share with you something beyond what our ad says and a reason for why you should consider us a resource. Thanks, Erin, here goes: For starters, the litigation funding space is considerably more populated today than it was in 2004 when we got started. You'd be justified in assuming today's crowded field has put the squeeze on our margins but you know what they say about assumptions. The truth is our rates were unfashionably below-market when we got started and remain among the industry's lowest today. We continue to eschew the short term gain for the long term investment. For us, what's most appropriate has always trumped what's most lucrative. You might call that a Western PA mentality and it extends far beyond the dollars. It's also about our building strong relationships with you, your colleagues and your organizations. Your fight to protect the rights of individuals is our fight, too, and it's not just because unreasonable tort reform is bad for our business. It's because it's bad for any free, democratic society. That is who we are and what we believe. We also believe in litigation funding. We've seen it help a lot of hard working folks make it through some extremely trying circumstances. It's not appropriate for all occasions but it can be an enormous difference-maker in the life or lives of some. That's when we ask that you consider us a resource.

Thank you Erin and Laurie (Lacher) for giving us this opportunity and thank you to the WPTLA and its membership for the great support we've received over the years.

Sincerely,
Dean Lipson
Covered Bridge Capital

Wolfe v. Allstate: GOOD NEWS . . . . . and bad news

By: Charles W. Garbett **

I really like those good news/bad news jokes. The surprise twist at the end usually leads to an unexpected source of humor. This past year, however, the Third Circuit gave us an unexpected twist that was anything but funny. Indeed, one could say that what the Pennsylvania Supreme Court had given us with one hand, the Third Circuit took away with the other.

Up until the *Wolfe* decision, if the Defendant driver's conduct was especially egregious that would eventually lead to a tort Complaint seeking both compensatory and punitive damages. While it has long been the law in Pennsylvania that punitive damages are not recoverable from a Defendant's insurer, the insurer was expected to use its best good faith efforts to settle the underlying tort claim. If the carrier had the opportunity to settle the tort claim within its policy limits and refused, that failure to settle could trigger a claim for Bad Faith, both common law and statutory. *Cowden v. Aetna Casualty and Surety Co.*, 389 Pa. 459, 134 A.2d 223 (1957); 42 Pa.C.S. §8371. The standard for measuring bad faith was whether the insurer put its own interest before that of its insured. The practical benefit from this scenario was that it forced insurers to adequately evaluate and attempt to settle the underlying tort action or risk a bad faith action for exposing an insured to an excess verdict or a punitive damages award. *Toy v. Metropolitan Life Insurance Co.*, 593 Pa. 20, 928 A.2d 186 (2007).

First the good news.

In the underlying tort action, the Plaintiff, Wolfe, was injured when struck from behind by an automobile driven by Allstate's insured, Zierle. Zierle was driving while intoxicated. Allstate's policy limits were $50,000.00. Prior to trial, the Plaintiff, Wolfe, had offered to settle for $25,000.00. Allstate, instead, offer only $1,200.00. *Allstate v. Wolfe*, 105 A.3d 1181 (Pa. 2014).

Wolfe obtained a verdict against Zierle comprised of $15,000.00 in compensatory damages and $50,000.00 in punitive damages. Allstate paid the amount of the compensatory damage judgment only. Wolfe then entered judgment against Zierle for the punitive damage portion, but entered into an agreement whereby Wolfe agreed to forbear from executing against Zierle in exchange for an assignment from Zierle of all claims arising under the policy with Allstate.

Wolfe then commenced a civil action against Allstate claiming bad faith damages under both common law and statutory theories. Allstate removed the litigation to Federal Court.

Allstate challenged Wolfe's right to obtain an assignment of the punitive damage verdict. The Trial Court noted the disagreement among the lower courts on this issue but permitted the claim to go to trial. Following trial, the jury awarded no compensatory damages but did award $50,000.00 in punitive damages. Allstate then appealed to the Third Circuit. The Third Circuit filed a certification petition with the Pennsylvania Supreme Court, which petition was granted. *Allstate v. Wolfe*, 90 A.3d 699 (Pa. 2014) (*per curiam*). After considering the issue, the Supreme Court held that damages under §8371 may be assigned by an insured to an injured plaintiff and judgment creditor such as Wolfe. The Supreme Court having answered the certified question, the Supreme Court returned the case to the Third Circuit.

That was the good news. Now the bad news. On remand, the Third Circuit found that the punitive damage award in the underlying tort action was non-admissible in the Bad Faith case because it was irrelevant to the calculation of damages under Section 8371. *Wolfe v. Allstate*, 790 F.3d 487 (3d Cir. 2015).

The Third Circuit predicted how our Supreme Court would address this issue as follows:

> "We predict that the Pennsylvania Supreme Court would conclude that, in an action by an insured against his insurer for bad faith, the insured may not collect as compensatory damages the punitive damages awarded against it in the underlying lawsuit. Therefore, the punitive damages award was not relevant in the later suit and should not have been admitted.
>
> . . . It follows from our reasoning that an insurer has no duty to consider the potential for the jury to return a verdict for punitive damages when it is negotiating a settlement of the case. To impose that duty would be tantamount to making the insurer responsible for those damages, which, as we have discussed, is against public policy.

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WOLFE V. ALLSTATE … *(Continued from Page 20)*

(Citation omitted). *Wolfe v. Allstate*, 790 F.3d 487, 492, 496 (3rd Cir. 2015).

In practice, this means that insurers do not need to consider the possibility or amount of punitive damages in evaluating the underlying tort claim. This is certainly bad news not only to the Defendant driver but to Plaintiffs seeking to adequately recover from the responsible Defendant's outrageous conduct. The Court held that insurer had no duty to consider the potential for an award of punitive damages when it was negotiating a settlement of the tort case. Rather, the Court found that imposing that duty would be against public policy.

But despair not. While persuasive, the Third Circuit decision is not binding upon our State Courts. The Third Circuit's decision is based upon an analysis of public policy. However, as noted above, if the real measure of bad faith conduct is putting the insurer's interests before that of the insured, then the result would be different. This latter rationale has been the yardstick by which our courts have measured an insurer's alleged bad faith conduct. This issue will not be settled until we get a final decision from the Pennsylvania Supreme Court.

Until then, however, rest assured that the insurers will be ready to cite the *Wolfe* case in defense of their compensatory damage evaluations.

** *Chuck is a WPTLA Member from the law firm of Luxenberg Garbett Kelly & George. Email: cgarbett@lgkg.com*

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WPTLA has taken to social media with messages aimed at potential jurors.

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Western Pennsylvania Trial Lawyers Association

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...Through the Grapevine

Members **Patrick K. Cavanaugh** and **Bryan C. Devine**, of Del Sole Cavanaugh Stroyd, LLC, have moved their office to 3 PPG Pl, #600, Pittsburgh 15222. Phone and fax remain the same.

The attorneys at DelVecchio & Miller have new email addresses: Immediate Past President **Chris Miller**'s new email is chris@dmlawpgh.com. His partner **Brian DelVecchio**'s email is brian@dmlawpgh.com, and President's Club member **John Lienert**'s email is now john@dmlawpgh.com.

President's Club member **Anthony J. D'Amico** and his son **Michael J. D'Amico** have opened a new office, D'Amico Law Offices, LLC, at 310 Grant St, Ste 825, Grant Bldg, Pittsburgh 15219. P: 412-652-9300 F: 412-904-2245 Email for Anthony is ajd@damicolegal.com, and for Michael is mjd@damicolegal.com.

A firm change for member **Michael J. Gallucci**, President's Club member **John R. Kane**, member **Michael P. Robb,** and President's Club member **Janice M. Savinis**. Their new firm is Savinis & Kane, LLC. Address, phone/fax, and email remain the same.

Member **Dominic D. Salvatori** has a new address, at 310 Chestnut St, Rm 101, Meadville 16335.

Best Wishes to member **Ella Zych** on her retirement from Dell Moser Lane & Loughney, of Pittsburgh. To contact Ella, send an email to the Office Administrator at ljd@dellmoser.com.

Member **Carl M. Moses**, of Betras Kopp & Harshman has a new office at 850 S Hermitage Rd, Ste E, PO Box 1533, Hermitage, 16148. P: 724-342-2299 F: 724-347-1422. Email address remains the same.

A hearty congratulations to President's Club member & Past President **Bill Caroselli** on assuming 'Of Counsel' status at Caroselli Beachler McTiernan & Coleman.

Member **Gary M. Davis** has moved to a virtual office as a step toward retirement. Her can be reached at 651 Holiday Dr, Foster Plaza 5, Ste 300, Pittsburgh 15220. Phone and email remain the same.

President's Club Member **Tim Conboy** has moved his office to 733 Washington Rd, Ste 201 in Pittsburgh, 15228. Phone, fax, email and website remain the same.

And lastly, our deepest sympathies to the co-workers and friends of President's Club member and Board of Governors Member **Deb Maliver**, who passed suddenly on February 25.