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of Allegheny County

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IN LIMINE

Newsletter of the Academy of Trial Lawyers of Allegheny County

Volume 13, No. 2
April 2010

*This newsletter is dedicated to the memory of our long-time member and colleague, **Robert B. Smith**.
(see tribute to Robert on page 3)*

ACADEMY APRIL MEMBERSHIP LUNCH

&

11th ANNUAL SPRING SYMPOSIUM ON CIVIL TRIAL PRACTICE IN WESTERN PENNSYLVANIA

Tuesday, April 20, 2010

11:45 a.m. – 1:00 p.m. Lunch in the Allegheny Room (17th Floor)

1:30 p.m. – 4:45 p.m. – Spring Symposium in the Monongahela Room (17th Floor)

Omni William Penn Hotel

Watch your mail and email for further lunch program details!

BE INFORMED ~ GET INVOLVED!

PRESIDENT'S THOUGHTS

Since our last edition of In Limine, a great deal of activity has taken place, and this issue serves to bring our members up to date on recently concluded and currently planned Academy programming.

It was with great sadness that I had to advise our members of the passing of our President-Elect **Robert B. Smith**. For the first time in the Academy's history, we were faced with the death of an officer and friend who was to assume the Presidency of the organization within this year. Robert's devotion to the Academy will long be remembered, and a special and personal tribute to him authored by member Ira Weiss is on page 3 of this newsletter.

In This Issue

President's Thoughts (Page 1)
My Friend, Robert B. Smith (Page 3)
Spring Symposium Program (Page 3)
With Sympathy (Page 4)
Membership Committee Report (Page 4)

Member Mark D. Shepard (Page 5)
Retreat Program Report (Page 6)
Membership Participation (Page 6)
Mock Trial Competition (Page 6)
Schweers Essay Committee (Page 7)

As a result of Robert's death, the Board of Governors met to discuss how the succession of officers should now proceed. After much discussion, it was determined that the succession would be that the existing officers would assume the vacant position so that **Joseph Macerelli** will now be the President Elect, **Patricia Dodge** will assume the office of Vice President, **John Gismondi** will become the Secretary, and **Deborah Olszewski** will act as Treasurer. The remaining office of Assistant Treasurer will remain open until the Nominating Committee meets in the late summer for its review and recommendations as to filling the officer positions.

On much happier issues, the 47th Annual Mock Trial Competition took place on February 18 – 19, 2010. The dinner on February 18th feted those schools and teams who participated in the event, and honored the individual advocates. This competition could not be undertaken without the significant involvement of a large number of Academy members, lead by Chair **Alan S. Baum**, 1st Vice Chair **Cynthia M. Danel** and 2nd Vice Chair **Miles A. Kirshner** as well as the efforts of Academy members who served as "scoring judges." The Academy also extends its thanks to the physicians who served as expert witnesses, the paralegals who served as lay witnesses and, as always, to our federal judges for their support, guidance and participation in this event. For a complete overview of the competition, its participants, and the winners, see the article at page 6.

At the February 18th dinner, the Academy similarly honored the winners of the 11th Annual William Schweers, Sr. High School Essay Contest. Vice Chair **Craig L. Fishman** presided over that portion of the program presenting the monetary awards to the first, second, and third place winners. Read an account of those awards at page 7 of this Newsletter.

At that same dinner, a very special presentation was made by the Academy to the **Honorable Amy Reynolds Hay**. Judge Hay was recognized for her dedication and service to the Schweers Essay Contest, as she has acted as the Chair of that Committee for the Academy for the last ten years. A special plaque was presented in her honor, and it is only a small token of the appreciation the Academy has for Judge Hay's wonderful contributions.

As we leave all the snow and shoveling behind us and look forward to Spring, I leave you with just a few reminders of the Academy events and programs to come.

Three **important program events** should be marked on your calendars:

- On **Tuesday, April 20, 2010**, Program Chair Mark Hornak and Program Vice Chair Ira Weiss have planned an interesting **April Membership Lunch Program** at the Omni William Penn Hotel – watch for the details this week. **SAVE THE DATE!**
- Also on **Tuesday, April 20, 2010**, immediately following lunch, we will host our **11th Annual Spring Symposium** (see page 3). The Honorable Eugene B. Strassburger has again graciously agreed to serve as the program moderator. **SAVE THE DATE!**
- On **Thursday, May 20, 2010**, there will be a **May Membership Lunch Program** in the Ballroom of the Rivers Club from 11:45 p.m. – 1:00 p.m. **SAVE THE DATE!**

My Friend, Robert B. Smith – A Remembrance

*"Think where man's glory most begins and ends,
And say my glory was I had such friends."*

William Butler Yeats

Robert Smith was my friend. Attorneys have colleagues, partners, associates and acquaintances. Friends are different. Friends share joys, problems, good times and bad times.

Robert (never Bob) was an outstanding attorney - unfailingly polite, ethical, and proper in every phase of his professional life. He was a stalwart of this Academy and only cruel irony took him before he had the chance to do what he always wanted to do...lead this Academy and its membership.

But, the side of Robert that few saw revealed a remarkably broad range of interests. He was an avid golfer, traveling to Scotland on a golf trip only to return sans his clubs. He was a fan of old British comedies and would often loan me Netflix versions of these films. He read all of the Rumpole stories and loved to talk about them. He had a sharp sense of humor and collected New Yorker cartoons. We talked often about sports teams and complained about the Pirates and reveled in the success of the Steelers and the Pitt basketball and football teams.

The focus of his life the last several years was his children and grandchildren. We shared pictures and stories as my three grandsons came along. His daughter blessed him and his wife Nancy with two beautiful grandchildren and they traveled frequently to Massachusetts to visit and baby-sit and do all the things doting grandparents are supposed to do.

The sum and substance of a friendship is shared concern about each other and sharing interests. Those are the things we remember about Robert. He loved jazz and the American songbook and we talked often about the cabaret singers who are regularly reviewed in the New York Times and we talked about the amazing talent and longevity of Barbara Cook when she last appeared in Pittsburgh.

The Academy has lost a staunch supporter. Our profession has lost a role model for all young lawyers who aspire to be principled litigators. I have lost a good friend. The glory was ours.

Ira Weiss

(President's Thoughts continued from page 2)

If you have any comments or suggestions on new Academy programs, thoughts on how to improve our existing programs or anything else you believe will improve the Academy and the quality of our programs, please let us know. You can always contact me, any of the Officers or our Board members.

Kate J. Fagan, President

11th ANNUAL SYMPOSIUM ON CIVIL TRIAL PRACTICE

On Tuesday, **April 20, 2010**, the Spring Seminar Committee will sponsor the **"11th Annual Symposium on Civil Trial Practice in Western Pennsylvania"** from 1:30 – 4:45 p.m. in the

WITH SYMPATHY

*The Academy Family extends its sincere condolences
to the family of Academy members*

Thomas P. McGinnis
*whose father, James V. McGinnis,
passed away on January 10, 2010*

Bethann R. Lloyd
*whose mother, Joanne Lloyd,
passed away in February.*

Andrew J. Leger, Jr.
*whose father, Andrew J. Leger, Sr.
passed away on March 22, 2010*

(Spring Symposium continued from page 3)

Monongahela Room on the 17th Floor of the Omni William Penn Hotel. The program will offer 3 CLE credits (1 ethics and 2 substantive). The program will immediately follow the April Lunch Meeting scheduled from 11:45 a.m. – 1:00 p.m. in the Allegheny Room, also on the 17th Floor of the Omni William Penn Hotel.

This program is a great opportunity to spend an afternoon with members of the bench. Civil trial judges from **Allegheny, Beaver, Blair, Butler, Washington, and Westmoreland Counties**, as well as others, have been invited to participate in the program and share their insights into courtroom practice and legal matters. This year's program will again be moderated by Allegheny County Civil Division Administrative **Judge Eugene B. Strassburger, III**, who will serve along with a panel of distinguished jurists from Pennsylvania's state Courts.

The program is open to Academy members and non-members alike. The program affords a wonderful opportunity to introduce non-members to the distinctive spirit of sharing between the bench and bar, which Academy members have enjoyed over the years. It is certainly an occasion that should not be missed by any Academy member.

The Academy's CLE programs such as this serve two purposes. The first, and foremost, is the education opportunities for members and others. The second is to provide a way for the Academy to raise funds to promote the Academy's programs and events. This second purpose has long served as an important aid in funding the high quality events and programs that the Academy has consistently offered.

REGISTER TODAY – FLYER INCLUDED WITH THIS NEWSLETTER!

Stanley J. Parker, Chair
J. Elise Tourek, Vice Chair

MEMBERSHIP COMMITTEE

The Membership Committee received applications from 19 lawyers who were nominated for membership in the Academy. When added to the group of 31 "holdover" applicants from last year, we have a total of 50 applicants to be considered for membership this year.

To assist the Committee in its selection process, a survey with the names of the 50 applicants was sent to our active membership, and we received a 62% membership response to that survey. The Committee has begun to conduct personal interviews with each of the 50 applicants and after all applicants are interviewed and rated by the Committee, formal voting will take place to decide on new member recommendations to the Board of Governors at their May meeting.

In order to enhance fairness and provide uniformity in the selection process, new written guidelines governing the deliberations of the Membership Committee were adopted last year. Those guidelines change prior practices in the selection process in several important ways. For those interested in reading about the changes, a copy of those guidelines can be obtained by contacting Debbie Smith at academy@atlac.org.

Vicki Kuftic Horne, Chair

ACADEMY MEMBER MARK D. SHEPARD

So often, we learn about our Academy members and their experiences in the courtroom. Fellow member **Mark Shepard** recently had an experience of a lifetime that will forever connect him to the BRESMA orphans cared for by Pittsburgh's McMutrie sisters.

Mark serves as President of the Board of Directors of Catholic Charities. In that capacity, he was contacted to attend a meeting that would ultimately culminate in the coordination of the flight, which brought over 50 Haitian orphans to Pittsburgh. Initially, little did Mark realize that he would not only be involved in the planning, but he would also become a participant.

The incredible effort to bring these children to Pittsburgh was the result of efforts by politicians, charitable groups, individuals, and medical professionals. Mark, through Catholic Charities, was asked if that organization would help coordinate the care that the children would receive once they arrived in Pittsburgh. In this, the 100th year of service by Catholic Charities, the answer to that call could only be "yes". As Mark says, the organization's motto for this anniversary is "100 years of saying yes and serving all".

Mark not only helped in the coordination of the effort, but he flew on the plane to Haiti to get the children. In that journey, he grew to know the McMutrie family well, and is amazed by their strength and dedication to the children. Once in Haiti, he met the two sisters who are a force in caring for and aiding these young children. He describes the experience as life altering.

The return trip to Pittsburgh found Mark cradling Lucalinda, one of those special children. Ultimately, he was able to see her united with the family who had applied to adopt her. Knowing that Lucalinda was with her adoptive family, and well on her way to a good life and home, Mark knows that bringing those children here was the best and the right thing to do.

Mark saw the great effort that was mounted to place the children with their adoptive families, and knows that effort continues with the few children who remain at the Holy Family Institute. He also wishes to thank all those Academy members who called and e-mailed him to offer their support.

Kate J. Fagan, President

RETREAT PROGRAM REPORT

This year's Academy Retreat will feature the case of *Thomas v. Page*, a defamation action filed by Illinois Supreme Court Justice Robert Thomas. The suit was against a newspaper reporter who wrote a column suggesting that the jurist agreed to a relatively modest sanction in an attorney discipline case in exchange for political support of a judicial candidate he favored.

The case has a slew of interesting legal issues. For example, there were several discovery and trial disputes concerning whether a "judicial deliberation" privilege existed that would insulate other members of the Supreme Court from testifying in the case. There was also extensive legal debate of about whether Justice Thomas's claim of economic harm was too speculative. That claim was based on the argument that the article would impair his ability to obtain an equity partnership in a Chicago law firm when he retired from the bench and/or that it would impede his ability to gain appointment to a position on the federal bench. The extent of the so-called "reporters' privilege" and the discovery of confidential sources was also the subject of much legal wrangling.

Prior to practicing law and then winning election to the Illinois Supreme Court, Justice Thomas, a Notre Dame graduate, was a long-time place kicker for the Chicago Bears and currently ranks as the team's third all time leading scorer.

The case was tried for two weeks in front of a state court jury in a county outside of Chicago. The plaintiff's pre-trial demand was in the range of \$15,000,000. Hear about the verdict at Nemaocolin!

We will be joined at the retreat by plaintiff's counsel, **Joe Power, Jr.**, defense counsel, **Steve Mandell**, and trial judge **Donald J. O'Brien, Jr.**

This should be a fascinating case for our members!

John P. Gismondi, Program Moderator

MEMBERSHIP PARTICIPATION CREDITS

Just a reminder that one way to fulfill some of your membership participation requirements is by availing yourself of the Academy's excellent CLE programs. You can receive one meeting credit for each 3-credit CLE program, excluding the Retreat CLE programs. Another way is to volunteer to serve as a "scoring judge" for the annual Mock Trial Competition in February of each year.

2010 MOCK TRIAL COMPETITION

As a result of the efforts of numerous Academy members, Federal Court Judges and Magistrates, business school students, paralegals, court reporting students, physicians, nurses, law clerks, high school students and countless other volunteers, the 47th Annual Academy of Trial Lawyers Mock Trial Competition was a resounding success.

The 2010 Competition included law school teams from William & Mary, Duquesne University, Fordham University, St. John's University, Widener University (Harrisburg), Widener University (Delaware), Catholic University, University of Pittsburgh, University of Connecticut, Akron University, University of Pennsylvania, Case Western University, University of West Virginia, Georgetown University and Howard University.

Judge Thomas Hardiman presided over the final competition between William & Mary for the plaintiff and the University of Akron for the defense. William & Mary ultimately prevailed. At the Awards Dinner on Thursday evening, the best advocate award was presented to **Donovan Hill** of the University of Akron. Second place advocate was presented to **Sara Frasier** of the University of Pennsylvania team. **Magistrate Judge Kathy Bissoon** was our keynote speaker at the Awards Dinner.

We are already planning for next year's competition. If you have or are aware of a case you think would be suitable as the vehicle for the 2010 competition, please let us know.

Thank you to all of those who contributed to the great success of our competition this year!

Alan S. Baum, Chair
Cynthia M. Danel, 1st Vice Chair
Miles A. Kirshner, 2nd Vice Chair

11th ANNUAL WILLIAM S. SCHWEERS SR. ESSAY CONTEST

The William S. Schweers, Sr. Essay Competition winners were honored at the Awards Dinner on February 18, 2010. Finishing in first place was **Eric Wasserman Stern** from Pittsburgh Allderdice High School. Second place was awarded to **Scott Wasserman Stern**, brother of Eric, also from Pittsburgh Allderdice High School, and third place went to **Katherine Standbridge** from Hampton High School. Students were asked to address the topic "Should the City and County be permitted to levy taxes or fees upon certain not-for-profit entities such as local universities and health care facilities?" The essays submitted were extraordinary.

A special thank you to our member **Tim Schweers**, the Schweers Family and the members of the Schweers Essay Committee.

ACADEMY CALENDAR OF EVENTS

APRIL 20, 2010
Tuesday

MEMBERSHIP LUNCH PROGRAM, Omni William Penn
 11:45 a.m. – 1:00 p.m.

SPRING SYMPOSIUM PROGRAM – Omni William Penn
 1:30 p.m. – 4:45 p.m.

MAY 20, 2010
Thursday

MEMBERSHIP LUNCH PROGRAM, Rivers Club
 11:45 a.m. – 1:00 p.m.

JUNE 15, 2010
Tuesday

MEMBERSHIP BREAKFAST PROGRAM, Rivers Club
 7:30 a.m. – 9:00 a.m.

OCTOBER 6 – 9, 2010
Wednesday - Friday

22nd ANNUAL MASTERS OF TRIAL ADVOCACY RETREAT
 Nemaocolin Woodlands Resort

