

From the President _____

On behalf of myself and the Bar Association, I would like to thank President Judge Tylwalk, Judge Kline, Judge Charles, Judge Jones and Senior Judge Eby for their effort in the recent Bench Bar Luncheon. We look forward to future Bench Bar events with a lunch, CLE and Question and Answer opportunities. I would again like to extend my appreciation to Jason Schibinger, Jen Wentzel, and Susan Wolf for their efforts in planning the April 2, 2016 annual Bar dinner/dance. It seems that everyone who attended very much enjoyed the location and the “Roast” of Joe Mesics. In this vein, we have tentatively scheduled the 2017 event for April 22, 2017 at Brasenhill. The 2017 event will also honor Fred Wolfson in celebration of his fifty (50) years of practice. Anyone wishing to be on the planning committee, please contact Susan Wolf.

Additionally, as noted at the recent membership meeting of April 29, 2016, the Bar Association’s lease at the Northwest Savings Bank location expires at the end of 2017. Although continuing to lease the space is a distinct possibility, a Strategic Planning Committee will be evaluating the feasibility of acquiring a building, and possibly subleasing space to MidPenn or other tenants. Anyone interested in participating should contact me as soon as possible.

Finally, Ian Ehrgood will be spearheading a new project to coordinate a tour and introduction of the County Row Offices for new (and old) members of the Bar. The response from the Row offices has been enthusiastic and we hope to have the program in place by the fall. If you would like to assist or participate, please contact Ian Ehrgood.

Again, thanks to President Judge Tylwalk, Judge Kline, Judge Charles, Judge Jones and Senior Judge Eby for participating in the Bench Bar Luncheon.

Please provide feedback regarding this new format.

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Message from President Judge John C. Tylwalk

In an effort to add some clarification and, perhaps, be a reminder, I want to discuss two issues that frequently come up during sentencing proceedings.

The first of these issues is the need for a DUI defendant to have a full drug and alcohol assessment prior to sentencing and the potential impact of the results of that assessment. The second deals with the concept of re-entry plans and the occasions when the Court must mention the possibility of a re-entry plan as part of a sentence.

A full assessment for alcohol and drug addiction must be completed prior to the sentencing of a DUI defendant, where the defendant has a prior DUI conviction within 10 years of the current offense and either:

1. The CRN evaluation indicates there is a need for counseling or treatment; or
2. The defendant's BAC was at least .16%. 72 Pa. C.S.A. §3814(2)(ii)(A)(B)

The CRN itself is not a full drug and alcohol assessment. The Supreme Court has ruled that this assessment is "mandatory", and if a sentence is imposed lacking the assessment where it is required, the Court is without authority to actually sentence the individual. *Commonwealth v. Taylor*, 104 A.3d 479 (Pa. 2014).

There are practical implications based on the results of the

assessment. A valid intermediate punishment sentence involving house arrest with electronic monitoring instead of mandatory jail time can only be imposed if treatment is a component of the house arrest. In addition, if treatment is mandated, the Court must impose "a maximum sentence equal to the statutorily available maximum", that is, five years if the offense is a second or greater offense. 42 Pa. C.S.A. §3804(d). The Court can retain parole and supervision authority if the sentencing Judge states his intention to do so at the time of sentencing. 75 Pa. C.S.A. §3815(a). Otherwise, the place of confinement dictates the paroling and supervision authority.

The completion of recommended treatment prior to sentencing creates an interesting conundrum. Since treatment was completed, the statutory maximum sentence need not be imposed; however, if treatment is not a component of the sentence, house arrest with electronic monitoring cannot be imposed in lieu of the mandatory jail sentence as part of an intermediate punishment sentence. If the completed treatment was inpatient treatment, the defendant can be given credit for that time to offset the mandatory minimum.

As a side note, members of the Bar should be aware of the fact

that Probation Services has an early release from supervision policy that may come in to play if one of your clients receives the five year maximum as part of an intermediate punishment sentence. The circumstances in which an individual can be released from supervision early and the details of that policy can be obtained from Probation Services.



The existence of this possibility may be a factor counsel should consider in recommending to a client whether they should actually complete their counseling or treatment prior to sentencing.

The second topic, re-entry plans, is an area in which there has been considerable confusion. The Justice Reinvestment Act of 2008 (42 Pa. C.S.A. §9751, et seq.) specifically prohibits the Court from granting early parole on an original sentence which is imposed upon a defendant to be served in a county facility. The Act did create an exception to this restriction, which involves the Court, at the time the sentence is imposed, being able to state whether an individual would be eligible to be released early from their sentence to take part in a "re-entry plan". The genesis of this concept is based on the realization that many individuals who are sentenced to county prisons have not just drug and alcohol issues,

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but also other issues that could be addressed in a more proper setting than the prison itself. The concept of “re-entry plan” is broadly defined and although the Act is intended to encourage release of an individual into effective programs that will help in reducing recidivism, the Act allows a Judge to release a prisoner under a plan with “any other conditions deemed relevant by the Court”. 42 Pa. C.S.A. §9756(e). When the Court sentences an individual to a county prison sentence, part of that sentencing Order should include language dealing with a re-entry plan. The Court should specifically say, in the sentencing order, whether the defendant will be eligible for a re-entry plan immediately, after serving a stated portion of the minimum sentence imposed, or whether the individual will not be eligible for a re-entry plan. Absent such eligibility language being included in the order at the time of sentencing, an individual cannot legally be released prior to the expiration of their minimum sentence.

There has been some confusion with regard to when such language must be included in a sentencing order. As I have indicated, this language must be included at the time of the original sentence which involves time to be spent in the Lebanon County Correctional Facility. If the

original sentence that is imposed is, for example, 6 months to 23 months in LCCF, the sentencing Judge should indicate at that time the appropriate language with regard to re-entry. When a person appears before the Court on a probation violation, if the sentence being imposed as a result of that violation includes time in LCCF, the Court should also address the issue of eligibility for re-entry. Again, if the Court does not indicate that a person is eligible for a re-entry plan at the time the jail sentence is imposed, the defendant is required to serve the entire minimum sentence imposed before release.

There has been some confusion about whether the re-entry language must be used at the time a defendant is sentenced on a parole violation. It does not. If the Court believes that a parole violator should be incarcerated for that violation, the standard order should indicate that parole is vacated and that the defendant is being remanded to serve the balance of his or her maximum sentence, either with or without credit for street time. As a part of that order, the Court can indicate the time the individual must serve before they will be considered for re-parole, and may also indicate a lesser time to be served if the defendant enters some type of treatment program. The Court could also immediately parole the defendant that date. Although these

concepts sound quite similar to a statement concerning re-entry, we are actually talking about the concept of “re-parole”, as the defendant had previously been paroled from prison and now is appearing before the Court based on an alleged violation.

Although this may seem to be a discussion concerning only semantics, it is not really that at all. The terms “re-entry” and “re-parole” have a specific meaning, and, when they are used by a Judge in a sentencing order, they alert members of Lebanon County Probation Services to specific things. My hope is that this discussion has not made these concepts “as clear as mud”, but rather has provided some “illumination” as to when they come into play. I hope to address these issues generally at the upcoming Bench/Bar Luncheon, but if you have any questions prior to that time, as always, we would be available individually to address them.

John C. Tylwalk, President Judge

Bench/Bar Luncheon and CLE



The annual Bench/Bar event was expanded this year to include a lunch and CLE session at All About You Catering. More than 50 attorneys attended, along with all five judges of the Lebanon County Court of Common Pleas. The main discussion topic was “Custody in Lebanon County: The Judicial Perspective,” followed by general questions and answers.

Online Attorney Registration Now Mandatory

The Supreme Court of Pennsylvania has ordered that electronic registration is mandatory beginning with the 2016-2017 assessment year.

Online registration will be available here beginning Monday, May 9. To avoid late fees, attorney registration must be completed by Friday, July 1.

For convenience, payment of the annual fee can be made one of two ways:

Pay by Credit Card: After electronically submitting the registration form, attorneys may pay using Visa, MasterCard, Discover,



er, or American Express. ATM/Debit cards are also accepted.

Pay by Check: Attorneys submit their form electronically and then choose to “Pay by Mail.” The payment voucher must be printed and mailed with a check made payable to: Attorney Registration Office, P.O. Box 3313, Lancaster, PA 17604. Registration is not complete until the voucher and payment are received.

The Disciplinary Board of the Supreme Court of Pennsylvania

will distribute email notifications reminding attorneys of Attorney Registration requirements and deadlines. Attorneys should be on alert for said notifications.

For technical support with online registration, contact the AOPC Help Desk at ccpaopc@pacourts.us or 1-877-227-2672.

For other online registration questions, view the FAQ section of the Disciplinary Board’s website or contact the Attorney Registration Office.

Law Exploring Program Looking for Additional Committee Members

Do you enjoy talking with teens, sharing your experiences and knowledge as an attorney?

The Lebanon County Law Exploring program is looking for additional committee members beginning in September.

Each year students in grades eight through 12 are invited to participate in the Law Exploring program, with attorneys volunteering as advisors.

The students meet monthly

from September to May to learn about law-related careers. Monthly programs include panel discussions with attorneys from a variety of specialties, meeting with a Lebanon County Court of Common Pleas judge, and observation of a local trial as well as the Pennsylvania Superior Court. Past years' students have also participated in a mock trial.

If you are interested in learning more about the program, contact Susan in the Bar Office.

Have you checked your profile on the LCBA web site?

Make sure you are registered on the LCBA web site for online referrals. People looking for attorneys often check the web site under the "Find a lawyer" section. This takes them to a general list of topics, such as family law or real estate. Clicking on these topics narrows down the list further, providing a specific list of attorneys who handle their type of case.

As a member, you are automatically listed. However, you should review the categories under which you are listed. Profiles are created using the form returned with membership dues in January. If you didn't return the form, or didn't select categories, your listing may not be complete.

Simply go to www.lebanon-countybar.org and click on the "Find a Lawyer" button. To make changes or if you have any questions, please contact the [LCBA office](#).

Join a Committee!

The LCBA has a variety of committees, each of which focuses on a specific area of bar activities. Some require more of a time commitment than others, but all have their rewards. If you are interested in serving on a committee, contact the LCBA office at lebcobar@verizon.net or 717- 273-3113.

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|-------------------------|------------------------------|
| Annual Meeting/Dinner | Legal Education |
| Athletic Events | Legal Journal |
| Audit | Legal Services to the public |
| Bench/Bar Event | Legislative |
| Budget | Medical/Legal (Liaison) |
| By-Laws | Nomination |
| Civil Rules of Court | Outstanding Senior Award |
| Criminal Rules of Court | PA Bar Assn. Delegate |
| Dinner Dance | Personnel Committee |
| Elder Law | Public Relations |
| Family & Domestic Law | Real Estate |
| Fee Disputes | Social and/or Special Events |
| Golf | Strategic Planning |
| Historic | Unauthorized Practice of Law |
| Law Day | Women Lawyers |
| Law Exploring Post | Young Lawyers |
| Law Library | |

Upcoming Events

Happy Hour to Celebrate the 70th Anniversary of the Lebanon County Legal Journal: Friday, July 29 at 4:30 p.m. at Hidden Still Spirits

Summer Picnic at Horace Ehrgood's house Friday, August 12

Pro Bono celebration lunch and CLE: Monday, October 24

Annual Meeting and Dinner: Thursday, November 10 at The Foundry Craft Grillery



During this year's Annual Law Day celebration, four attorneys were nominated to practice in the Lebanon County Court of Common Pleas. At left are: Andrew Race, an attorney with Reilly Wolfson; Elliott Katz, an attorney with the Public Defender's Office; and Matthew Martin, Law Clerk to Hon. Samuel Kline. Nicole Ridley, Law Clerk to Hon. Charles Jones, was unable to attend but has been admitted as well.

At the Spring Membership meeting, the Lebanon County Bar Association presented its annual donation to Mid-Penn Legal Services. At left, LCBA President Scott Grenoble gives the check for \$20,500 to Nick Matash, Managing Attorney of the Lebanon office and Jillian Copeland, an attorney with the Lebanon office.



The Outstanding Senior Award committee, along with partner WLBR/WQIC radio, chose Amanda Axarlis, a graduating senior from ELCO High School, for this year's award.

From left are Ann Kline, Marc Hess, award winner Amanda Axarlis, WLBR/WQIC CEO Robert Etter, and Heather Eggert.

Changes to PBI CLE seminars

New Payment Option and Location Change for Video Replays

The Pennsylvania Bar Institute has instituted some changes to the ways attorneys can earn their CLE credits.

PBI ProPass

PBI is introducing the PBI ProPass: your choice of any 12 CLE credits presented by PBI for \$595, or \$495 for new attorneys.

The ProPass enables you to spend your 12 credits on any format program: live, simulcast, video replay, webinar, webcast, on demand video, podcast.

Rules for the program include the following:

- The PBI ProPass must be purchased online.
- Course registrations using the PBI ProPass must be completed online.
- For future use only.

- If you purchase a course and do not attend the program in its entirety, no credit/cash/token will be returned or refunded, nor will credits not attended be awarded.

- The PBI ProPass is nontransferable.

- No substitutions (other attendees) may be made with the ProPass.

- The PBI ProPass cannot be used or combined with any additional coupons or discounts.

- Not applicable for PLI programs.

For more information about ProPass, contact PBI at 1-800-932-4637.

Video replay location changes

PBI also recently changed the way it will handle the video re-

plays that have been shown at the Courthouse in Lebanon County. Beginning with the May sessions, they no longer send out DVDs, but live-stream all replays over the internet. Because the Courthouse does not have the equipment to show the seminars this way, the replays are now being held in the Bar Association office.

As before for both video replays and live web casts, all registration and payment will be handled through PBI by visiting www.pbi.org or calling 1-800-247-4724.

The special video replay topics and dates will be listed in the weekly Bar Briefs, as well as on the PBI web site. If a replay you'd like to attend is scheduled on a date you are unavailable, contact the Bar Association office to arrange an alternate date.



Helping with the Cotton Candy booth at the annual GSH Street Fair are, from left, Caitlin Krause, Jason Schibinger, Jen Wentzel, Ian Ehrgood, Jack Ferry, Ian's wife Alyssa Ehrgood and Caitlin's fiancée, David Mendez. More than \$400 was raised for the hospital.

Upcoming PBI Web Cast CLEs



He died with guns in his closet – firearms and estates: Thursday, June 16
9 a.m. to 12:15 p.m.; Course # 9243; Credits: 3 sub.

Evolving issues in fair debt collections: Monday, June 20
Noon to 4:15 p.m. (includes lunch); Course # 9436; Credits: 9436

What attorneys need to know about Alzheimer’s Disease: Tuesday, June 21
8:30 a.m. to 3:30 p.m. (includes lunch); Course # 9331; Credits: 5 sub./1 ethics (integrated)

Representing Physicians and Dentists: Wednesday, June 22
8:30 a.m. to 3:30 p.m. (includes lunch); Course # 9244; Credits: 6 sub.

29th Civil Litigation Update: Monday, June 27
9 a.m. to 5 p.m. (includes lunch); Credits: 5 sub./1 ethics (Replay)

General practitioners update: Wednesday, June 29
8:30 a.m. to 3:45 p.m. (includes lunch); Course # 9079; Credits: 5 sub./1 ethics

Shareholder disputes in closely held corporations: Friday, July 8
9 a.m. to 1:15 p.m.; Course # 9438; Credits: 3 sub./1 ethics

David Binder on PA Evidence: Monday, July 11
9 a.m. to 12:30 p.m.; Credits: 3 sub. (Replay)

The best retirement and estate plans for attorneys: Tuesday, July 12
8:30 a.m. to 4:15 p.m. (includes lunch); Course # 9435; Credits: 5 sub./1 ethics (integrated)

Land Use Initiative 2016: Wednesday, July 13
8:30 a.m. to 5:30 p.m. (includes lunch); Course # 9312; Credits: 7 sub./ 1 ethics

The fear factor: How good lawyers get into bad ethical trouble: Monday, July 18
9 a.m. to 12:15 p.m.; Course # 9395; Credits: 0 sub./3 ethics

Misclassification of workers: independent contractor or contingent worker: Wednesday, July 20
9 a.m. to 12:15 p.m.; Course # 9456; Credits: 2 sub./1 ethics (integrated)

Talking with pictures: Courtroom Persuasion in the multimedia age: Monday, July 25
9 a.m. to 5 p.m. (includes lunch); Credits: 5 sub./1 ethics (Replay)

Common estate planning blunders – how to correct and avoid them: Tuesday, July 26
9 a.m. to 1:15 p.m.; Credits: 3 sub./1 ethics (integrated)

Basics of Wage and Hour Law: Wednesday, July 27
8:30 a.m. to 12:45 p.m.; Course # 9322; Credits: 4 sub. (Replay)

Dynamic Presentation Skills for lawyers: Thursday, July 28
9 a.m. to 4:30 p.m. (includes lunch); Course # 9382; Credits: 6 sub.

The role of insurance and indemnity in business transactions: Friday, July 29
9 a.m. to 1:15 p.m.; Course # 9307; Credits: 3 sub./1 ethics (integrated)

Winning at trial: Tuesday, August 2
9 a.m. to 5 p.m. (includes lunch); Video Replay; Credits: 5 sub./1 ethics

continued

Upcoming PBI Web Cast CLEs

**Day on Real Estate – East: Wednesday, August 3**

9 a.m. to 4:20 p.m. (includes lunch); Course #9500; Credits: 5 sub./1 ethics

Get organized and get things done: Thursday, August 4

9 a.m. to 5 p.m. (includes lunch); Video replay; Credits: 5 sub./1 ethics (integrated)

The intersection of life and estate planning: Tuesday, August 16

Noon to 4:15 p.m. (includes lunch); Course # 9426; Credits: 4 sub.

13th Annual Animal Law Conference: Thursday, August 18

9 a.m. to 4:30 p.m. (includes lunch); Course # 9381; Credits: 6 sub.

The new MBA concepts for lawyers: Tuesday, August 23

9 a.m. to 5 p.m. (includes lunch); Video replay; Credits: 5 sub./1 ethics (integrated)

5th Annual U.S. Supreme Court Roundup: Wednesday, August 24

9 a.m. to 12:15 p.m.; Course # 9039; Credits: 3 sub.

New Orphans Court Rules Encore: Thursday, August 25

9 a.m. to 12:15 p.m.; Course # 9403E; Credits: 3 sub.

The estate planner's income tax playbook: Monday, August 29

9 a.m. to 12:30 p.m.; Video replay; Credits: 3 sub.

Business insurance: Tuesday, August 30

9 a.m. to 1:15 p.m.; Course # 9441; Credits: 4 sub.

Workers' Compensation practice and procedure 2016: Monday, September 12

9 a.m. to 1:30 p.m.; Video replay; Credits: 4 sub.

Nonprofit volunteers – Legal and management strategies for success: Tuesday, September 13

Noon to 4:15 p.m. (includes lunch); Course #9514; Credits: 4 sub.

Evolving support cases: Discovery, deviations and add-backs: Tuesday, September 20

9 a.m. to 12:15 p.m.; Course #9428; Credits: 3 sub.

Immigration law forum: Friday, September 23

8:30 a.m. to 5 p.m. (includes lunch); Course #9543; Credits: 5 sub./1 ethics

Real estate 101: Buying and selling residential real estate: Wednesday, September 28

9 a.m. to 4:15 p.m. (includes lunch); Course # 9423; Credits: 5 sub./1 ethics (integrated)

Please note: The Live Group Cast and Replayed CLEs are held in the Lebanon County Bar Association Office. If no one is registered one week before the date, PBI will cancel our location. Register online for all PBI CLEs at: www.pbi.org or call 1-800-247-4724. Register at least 3 business days in advance and receive a discount! Lebanon County Bar Association members also may request a \$50 refund once per year for a web cast attended in Lebanon. If you want to attend a replay on a different date than scheduled, contact the Bar Association office.

**Overwhelmed? Need someone to talk to?
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Confidential 24-hour Helpline: 1-888-999-1941**