

## LEGAL UPDATE

*A publication provided for the friends and clients of QRG*

VOLUME 8 NUMBER 2

550 E. PITTSBURGH STREET, GREENSBURG, PA 15601

SPRING 2007

### DYING WITHOUT A WILL

*By David S. DeRose, Esq.*

**W**e continue to encourage our clients to prepare a Will so as to be in complete control of those who will benefit from the passage of their property at death. The importance of a Will to direct the transfer of assets and to select who will administer your estate after you die cannot be overstated. However, many people fail to prepare a Will - they therefore die "intestate".

What happens when you die without a Will? Since there is no writing to designate to whom your property passes, Pennsylvania law establishes an order, called intestate succession, that must be observed.

The intestate law mandates the following:

- the surviving spouse is entitled to the entire estate if there are no living children, step-children or parents;
- the surviving spouse is entitled to the first \$30,000 of value in the estate, plus half the balance of the estate if the decedent is not survived by issue (children, grandchildren, or great-grandchildren) but is survived by a parent, or the decedent is survived by issue, all of whom are issue of the surviving spouse;
- the surviving spouse is entitled to one-half of the estate, where the decedent has issue who are not issue of the surviving spouse.

The above information probably seems confusing and ... it is! In plain English, we need to determine first if the person who died, called the decedent, has a surviving spouse, and if so, to calculate his or her share. That means we must examine whether any children or grandchildren exist from the current marriage or prior marriages or relationships. We then need to apply the above distribution rules.

Once the beneficiaries have been determined, we next take a look at the assets and how they are titled. If there are any assets held by the decedent in his or her name alone at the time of death, then these resources become estate assets and will be distributed pursuant to the intestate succession rules. When assets are owned jointly, such as a family home or bank account in joint names, there may not be any estate to process. Those types of assets usually pass directly to the survivor by operation of law.

By way of example, if a husband dies, survived by a wife and three children who are all children of that marriage, under the intestate laws, the wife would be entitled to the first \$30,000 of the estate's value, plus one-half of the remainder. The children are next in line and are entitled to the remaining portion of the estate. If the husband owns a home jointly with his wife, the value of that home would not be included in calculating the wife's share, since the home would not be an estate asset. It would pass directly to the wife.

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*The LEGAL UPDATE is prepared by the staff of QRG for its friends and clients. The UPDATE sets forth general principles and should not be acted upon without specific advice.*

# VINCE QUATRINI RECEIVES WBA PRESIDENT'S AWARD



*Vince displays the President's Award. Pictured with him are Attorneys Richard Galloway of QRG (l) and Dan Joseph (r), both past recipients of the Award.*

At the 2007 Annual Meeting of the Westmoreland Bar Association, the prestigious President's Award for Professionalism was given to Attorney Vince Quatrini. This is the highest award given by the Westmoreland Bar Association and is awarded only when the leadership of the Association determines that an attorney has demonstrated exceptional service to the Bar Association, the law and the community. Vince was cited for his many years of service to the local Bar Association, his community projects, including being one of the founders of The Community Foundation of Westmoreland County, his service in providing continuing legal education seminars across Pennsylvania for thousands of lawyers, his service as chair of the statewide Conference of County Bar Leaders, and his excellence as a lawyer. All of us at QRG are proud of his accomplishments and join in congratulating him on receiving this Award.



## WHAT'S THE VERDICT?

*By Richard H. Galloway, Esq.*

Levi and Gertrude were getting up in years and decided that it was time that they had wills. They went in to see their lawyer, Mr. Jennings, and he asked them a series of questions about what they owned and who should receive it. They had three children, daughters Lennie and Blanche, and son, Bob. Unfortunately, Bob had died several years earlier, leaving three children, Barbara, Bobby and Sally.

Gertrude and Levi owned a house in Newton, a home in Smithville Flats and a cottage near Falls. At their direction, Mr. Jennings prepared wills for each of them which left everything to the surviving spouse. When the surviving spouse died, the property was to be divided as follows: Blanche was to get the Newton house, Lennie was to get the Smithville Flats summer home and Bob's children, Barbara and Bobby, were to share equally in the cottage at Falls.

For some unknown reason, either because Levi and Gertrude forgot to tell Mr. Jennings or because Mr. Jennings did not properly note it, the name of Bob's daughter Sally was left out of the will entirely. Unfortunately, nobody noticed.

Several years later, Levi passed away, leaving Gertrude as his surviving spouse. The next summer, Gertrude had Lennie and Blanche over for Sunday dinner, and Lennie, always disagreeable, began giving her mother a hard time about Gertrude's lack of civility toward Lennie's husband, John.

It was the last straw for Gertrude. Later that night, after everybody left, she took a pen and drew a line through Lennie's name on her will. She previously made copies of the will, intending to give them to the children. Over the years, she made changes to those copies, noting that Blanche was to get her diamond ring and the boats were to go to another grandson, Dick. However, she never made these same changes to the original will.

At age 88, Gertrude, pining for the love of her life, Levi, passed away quietly in her sleep. Blanche found the original will which named her as the Executrix, and went to see Mr. Jennings to have the will administered. Lennie has one of the copies of the will and is contending that it shows the latest changes to the will. Granddaughter Sally is an emotional wreck because her grandparents left her off both the original wills and the copies and she always thought she was their favorite.

Who gets what from this estate?

*Answer on Page 6*

# SUMMER JOBS – APPROACH WITH CAUTION

By Vincent J. Quatrini, Jr., Esq.

**W**orking a summer job or an after school/weekend job is a financial necessity for many teenagers and young adults. It is, of course, also an excellent life experience. However, there is a dark side to this character building part of life.

Many summer jobs are fraught with potential hazards. Equally worrisome is the fact that many of these risks may not be apparent, or they may be the result of inattention by an employer or a co-worker. Here are some real life examples. A college student suffered the amputation of two toes when her foot was run over by a go-kart that did not stop in time. Another college student took a semester off of school to earn tuition money by working at a restaurant, and ended up suffering very serious burns over his entire abdomen and left arm when his manager told him to dump the hot oil from the fryer by hand because the automatic oil remover had broken again! Yet another young man who graduated from St. Vincent college with an accounting degree took an "interim" job with a marble manufacturing company. Unfortunately, the rickety wooden "A" frame stand that was holding 7,000 pounds of marble slabs collapsed on him, crushing his voice box and causing permanent damage to his voice. Recently, another college student was severely injured when his co-worker slipped and struck him with a chain saw.

In Pennsylvania, you are not permitted to sue your employer even if your injury occurred because of some mistake on the part of your employer. So be vigilant in the workplace. Recognize and alert your superiors to potential dangers. Ask for and use safety gear. We do not want your stepping stone job to end up as a life-altering experience.

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## QRG IN THE COMMUNITY

The **Reality Tour**, a drug prevention program, is now playing at the Westmoreland County Courthouse at 6:00 p.m. on the fourth Tuesday of each month. The Reality Tour features a journey through the life of a teenage addict, including scenes in a jail and a hospital. Local volunteers speak and play the roles. Parents and their children ages 10 through 19 years of age are encouraged to attend. Attorney **Vince Quatrini** was instrumental in bringing the program to Greensburg, and QRG is a local sponsor. For more information, call us or register online at [www.realitytour.org](http://www.realitytour.org).

Attorney Quatrini recently spoke to the Westmoreland County Funeral Directors Association on behalf of the Community Foundation of Westmoreland County. The Foundation's mission is to encourage local residents to become philanthropists, provide grants that support a wide variety of charitable organizations, and serve as community leaders.

## QRG SEMINAR SERIES

### INSURANCE: **ARE YOU REALLY COVERED?**

Join us for a complimentary seminar to learn your rights

**WEDNESDAY, MAY 16, 2007**  
**5:30 P.M.**

Sheraton Four Points Hotel  
Greensburg, PA

*Light refreshments will be served*

Please RSVP by May 11, 2007:  
Call Diane Miller at 724-552-2733 or  
e-mail us at [news@qrglaw.com](mailto:news@qrglaw.com)

# SAFEKEEPING DOCUMENTS

*By David S. DeRose, Esq.*

Clients frequently ask us what they should do with their Wills, Powers of Attorney, Living Wills, Trusts or other legal and estate planning documents. It is important that these documents be stored in a fire-rated safe or file cabinet because original documents are irreplaceable.



We encourage you to create an individual file that will contain all of your estate planning documents, as well as financial and other legal paperwork, that will aid family members in the event of death or illness. Ideally, you should create a financial summary listing your assets and debts with some particularity and update that summary every year or two. That summary should be placed in the front of the safe or file drawer. Next, add all of your estate planning documents, then any deeds, mortgages, loan documentation, financial account statements, stock certificates, bonds, life insurance contracts, annuity contracts and other types of financial documentation. If this material is not organized and safeguarded, an added burden is placed on those who will act on your behalf.

It is important in most instances to sit down and discuss financial matters and estate planning documents with those persons responsible in the event of death or incapacity. Nothing can replace the empowerment that comes from being fully informed.

We encourage the use of safe deposit boxes to safeguard documents; however, you may wish to consider adding the Executor of your Will or Agent named in your Power of Attorney as another person authorized to enter your safe deposit box. This decision should not be made lightly, but it may ease the process of accessing the safe deposit box.

If you have lost or misplaced your Will, please do not think that a copy exists at the Courthouse. Although some people believe that Wills are filed at the Courthouse after they are prepared, Wills are filed at the Register of Wills Office only after death and if an estate must be opened. The original Will is the document that must be filed. Therefore, if you cannot locate your original Will, you should immediately have a new Will prepared.

This is not the same for Deeds and Mortgages, which are recorded at the Recorder of Deeds at the time of the transaction. You can obtain copies of these documents if necessary.

If you should misplace insurance policies or annuity contracts, we suggest that you immediately contact the company and have them replaced. You may also need to contact banks or financial institutions if you cannot locate certificates of deposit, passbooks, or any other account information.

With respect to financial or medical Powers of Attorney, we strongly suggest that you do not allow these documents to leave your possession until your trusted Agent needs to use them. The original documents should then be secured by your Agent, who will permit financial institutions, real estate agents, hospitals or physicians to make copies where necessary. When you are able to resume control of your medical and financial decisions, retrieve these documents from your Agent.

These are some suggestions which will help you organize and secure your estate planning documents and financial data. Take the time to create a system that is easy to update, and make sure to familiarize those closest to you with its content.



## SPOTLIGHT ON ... OUR ARMED SERVICES

As a tribute to our servicemen and women stationed throughout the world, Quatrini Rafferty Galloway is beginning a series spotlighting members of the armed forces. If you have friends or family you would like to see featured here, please send a picture and information to us. Some of these submissions will be featured in future issues.



Shown here is **Sergeant Michael Wirick** of the Ohio National Guard, assigned to the 449th Aviation Support Battalion, 36th Combat Aviation Brigade from Texas. He is currently stationed at Logistical Support Area Anaconda near Balad, Iraq.

Michael is married to Molly Wirick, of Ohio, and is the son of Dennis Wirick and Cheryl Morgan of Derry. He is a CH-57 Chinook helicopter mechanic, and while stationed in Iraq he is removing, inspecting and replacing aircraft systems on the Chinooks. Michael's wife Molly pilots a Citation II business jet for Hudson Air, a charter company based out of Akron-Canton Airport in Ohio, to destinations from the Florida Keys to Eagle, Colorado. Michael is a former Sunday School student of Attorney Barbara Artuso.

## ADVANCED HEALTH CARE DIRECTIVES

*By David S. DeRose, Esq.*

In previous articles, we have emphasized the importance of making known your wishes for your medical treatment in the event you become unable to make these decisions for yourself (Medical Power of Attorney) and your wishes for end-of-life decisions (Living Will). Together, these documents are now referred to as an Advanced Health Care Directive. In January 2007, the legislature made changes to the law regarding these directives.

It should be noted that Medical Powers of Attorney and Living Wills that were created before January 29, 2007 remain effective even though they do not contain some of the newer language of the revised statute.

A Medical Power of Attorney appoints in writing a trusted family member or a friend to make medical decisions in the event of your incapacity or inability to make them. The Medical Power of Attorney authorizes this person, now referred to as a "health care agent", to access your medical records, to select your physicians, to decide upon a course of treatment, and to follow your care until you are able to make your own decisions.

A Living Will deals with what is now termed an "end-stage medical condition." Changes to the law now provide that you have the right to decide in advance which measures should or should not be taken to prolong your life if you have an "incurable and irreversible medical condition" in an advanced state that your physician believes will result in death. The Living Will becomes effective when your physician determines that you are incompetent - that is, unable to communicate and/or understand health care decisions on your own - and you are either permanently unconscious or have an irreversible condition that leads your physician to conclude that death is imminent.

Preparation of a Living Will gives you the ability not only to select an appropriate health care agent to speak for you, but also to inform the medical community of the treatment you wish to have withheld if there is no feasible chance for recovery. Typically, the treatments that may be withheld include cardiac resuscitation, mechanical

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## WHAT'S THE VERDICT?

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**A**NSWER: Levi and Gertrude were better off than many people; at least they had wills. When Gertrude made changes without consulting her lawyer, it was inevitable that lawsuits would result and that hard feelings among family members would endure for years. Furthermore, when she did not read her will carefully enough to note that Sally's name had been omitted, she created disappointment and a feeling of bewilderment in a granddaughter she loved very much and intended to include as one of the beneficiaries of her estate.

The law takes very seriously the wishes expressed in a will. The overriding principle is to determine the intent of the person who made the will.

What about the fact that Gertrude drew a line through Lennie's name and that portion of the will that left her the house in Smithville Flats? One of the guiding principles in making a will is that the will must be signed. Making changes after a will has been signed will certainly lead to litigation over the meaning of the will. Here, the line through Lennie's name was drawn after the will was signed, and even though Gertrude no longer wished to leave the Smithville Flats house to Lennie, simply putting a line through the name will be ineffective according to Pennsylvania law. What Gertrude should have done was prepare and sign a codicil (an addition to a will that changes one or more of the will's provisions) and attach it to the will.

What about leaving Sally out of the will? This was clearly an oversight. The will said that the cottage in Falls should go to Bob's children, Barbara and Bobby. There is an ambiguity in the will since "Bob's children" includes Sally. Nonetheless, in order to include Sally in the distribution, a judge will have to be convinced by proper evidence that Gertrude's intent was to include Sally and that she did not specifically leave off one of her grandchildren as she was certainly free to do. The law in Pennsylvania allows a person to disinherit children or grandchildren. (It does not allow a person to disinherit a spouse.)

And what about Gertrude's diamond ring and the boats that were to go to grandson Dick? Changes to copies of wills are most likely ineffective. Only in rare instances, too complicated to detail here, will a copy be accepted for filing. That is not the instance here.

Sound complicated? Sound as if it is going to cause hard feelings? Sound as if it is going to involve a lot of legal fees, time and other expense? The answer to all of the above questions is yes. All this could have been avoided if Levi and Gertrude had read their wills carefully before signing them, and consulted their lawyer when they wanted to change them.

## DYING WITHOUT A WILL

*Continued from page 1*

In the absence of a surviving spouse and issue, the intestate law awards all property to the parents of the decedent. If no spouse, issue or parents survive, the estate would then pass to the decedent's brothers and sisters, or the issue of the brother and sisters, that is, the nephews and nieces of the decedent. Next in line would be grandparents, uncles, aunts, and their issue and others. Ultimately, if the decedent is not survived by any of these relatives, the Commonwealth of Pennsylvania becomes the decedent's beneficiary. Isn't that reason enough to create a Will?

Wills make sense! A Will affords you the opportunity to make certain that your property passes to those you wish to receive it. You can assure that property passing to minor children can be placed in trust instead of having it distributed to them on their 18th birthday. You can designate who will administer your estate and who will become the guardian for your minor children. Who should make these kinds of decisions? The answer is *no one but you*. The next time you put off the subject of writing or amending your Will, I hope you will consider the consequences and pick up the phone to make an appointment to write that Will!

# QRG PERSONAL NOTES

**Mary Heide**, grandmother of legal secretary **Jodi Busko**, is shown celebrating her 100th birthday on February 7th. She lives with her son, Jim, and has five children, fourteen grandchildren, and fifteen great-grandchildren. Her extended family honored her with a party at St. Paul's Lutheran Church in Trauger. Everyone at QRG extends congratulations to Grandma Heide.



Cub Scout Connection: **Alec Fonner**, son of Attorney **Ron Fonner**, won the Pinewood Derby for Pack # 236 and advanced to the next level of competition for the Westmoreland-Fayette Council. **Zachary Taylor**, son of paralegal **Kellie Taylor**, was awarded his Wolf Badge and advanced to status as a Bear Cub in Pack #352.

Attorney **Tereasa Rerko's** children are exploring their artistic sides at the Carnegie Museum of Art. **Patrick** is taking two classes, "Ready, Set, Paint!" and "Go Figure", while **Shelby**, a sixth grade honor roll student at St. John's in Scottsdale, is attending "The Art Connection." More information about these courses at the museum is available at [www.cmoa.org/programs/kids.asp](http://www.cmoa.org/programs/kids.asp).

**Christopher DeRose**, son of Attorney **David DeRose**, was named to the Dean's List with Honors for the Fall 2006 semester at McDaniel College, where he is a senior majoring in theatre.

The Norwin sixth-grade girls' B Team, led by **Cassidy Chappell**, daughter of paralegal **Rhonda Chappell**, won the 2007 Franklin Regional Hoops Classic. Cassidy was also high scorer for the team.

**Raymond Sowinski**, nephew of Attorney **Joyce Novotny-Prettiman**, was a point guard for the sixth grade basketball team of Christ the Divine Teacher School (CDT) of Latrobe. His team won the C Bracket of the Catholic Youth Organization teams of the Diocese of Greensburg. Raymond's sister, **Monica Sowinski**, is a member of the CDT cheerleading squad, which won first place in their division at the Serra Catholic Spring Classic held in McKeesport.

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## ADVANCED HEALTH CARE DIRECTIVES

*Continued from page 5*

ventilation, kidney dialysis, surgery, chemotherapy, antibiotics and perhaps even hydration and tube feeding. Your Living Will informs your closest relatives and medical providers of your wishes in advance, so that action is not taken to prolong unnecessarily the process of dying. Also, it gives you the opportunity to declare that you wish to be made comfortable through pain medication or other means, not leaving this subject to chance or decision by someone else.

If you do not have an Advanced Health Care Directive, the new law determines who will serve as your "health care agent" to make your medical decisions. Under the new provisions, your spouse and any adult children who are not children of your spouse would be on equal footing to make decisions for you. In the absence of a spouse or children of a first marriage or prior relationship, adult children of the present marriage are next in line. After that, parents, brothers or sisters, then adult grandchildren, in that order, are considered for this responsibility. Since there may be people on this list who you do not want to control your destiny, you must prepare an Advanced Health Care Directive.

There is truly no substitute for good planning. This is a subject that you must discuss with family and your health care agent. The discussion must be thorough about the duties and responsibilities now placed on the agent by the new law. These documents are not "one size fits all!" They must be tailored to your personal circumstances. To complete the process properly and make your decisions effective, ask questions of your physician and have your attorney prepare an Advanced Health Care Directive.

## MEET THE STAFF

### ESTATE PLANNING DEPARTMENT and PATTY APONE, LEGAL SECRETARY



**P**ictured at left is QuatriniRaffertyGalloway's Estate Planning department, which includes Attorney David DeRose, Attorney Jim Horchak, and their legal secretary, **Patty Apone**.

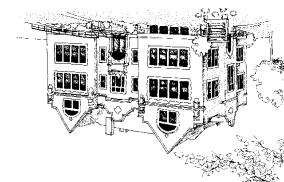
Patty has been with QRG for the last 10 years and has worked as a legal secretary in the Greensburg area for 22 years.

She and her husband, Dan, live in Mount Pleasant, together with Patty's two sons, Nicholas, age 15, and Ryan, age 11. Patty also shares her home with two cats, Whiskers and Squirt, their dog, Spunky, and two guinea pigs, Pancakes and Gizmo.

When not working, Patty enjoys spending time with her family and watching her sons play baseball, soccer, basketball and football. She also loves to travel, shop and play tennis.

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