

LEGAL UPDATE

A publication provided for the friends and clients of QRG

VOLUME 5 NUMBER 3

550 E. PITTSBURGH STREET, GREENSBURG, PA 15601

SUMMER 2004

WHY YOUR NEIGHBOR'S SISTER'S SON IS GETTING "DISABILITY" AND YOU'RE NOT

By Barbara J. Artuso, Esq.

If it seems to you that the Social Security Administration's process for determining who is disabled is unpredictable and complicated, you're correct. Sometimes a client, stung by initial denial of a claim, protests that "my neighbor's sister's son is getting disability benefits, and he's in really good shape compared to me". And that may be a true statement!

There are many factors that affect the decision of whether someone is disabled for purposes of receiving Social

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NEED HELP WITH THE COST OF YOUR PRESCRIPTION DRUGS?

By Barbara J. Artuso, Esq.

Low-income Medicare recipients (annual income under \$12,569 for individuals, \$16,862 for married couples) should sign up for prescription cards now! These cards are the beginning of a plan to have Medicare provide prescription drug insurance, which will begin in 2006.

For now, Medicare recipients are eligible to choose one of 40 national or 33 regional prescription drug plans in connection with their Medicare benefits. Sign-up for the cards began on May 3, 2004, and the cards became effective June 1, 2004. Information on the specific prescription plans available, price comparisons, and where the cards can be used is available online at the Medicare website (www.medicare.gov) or by telephone at 1-800-Medicare (1-800-633-4227).

For low-income Medicare recipients, the cards will cover \$600 of prescription drugs in 2004 and another \$600 in 2005. In some cases, pharmaceutical companies may provide additional low cost medication once the \$600 allowance is used. A survey of card sponsors found that the cards would produce average discounts of 17 percent for brand-name drugs and 35 percent for generic drugs.

In the last six weeks of 2004, Medicare beneficiaries can choose to either renew their cards or select one from a different company for use in 2005.

Trying to find the best health care and prescription drug plan for you is a complex process. No single solution fits each circumstance. We at QRG will continue to keep you informed of developments in this area. And, as always, please contact us with any questions you may have about health care and prescription drug coverage.

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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.

QRG PERSONAL NOTES

By Jacqueline M. Fajt

Kellie and Dean Taylor welcomed their second child, **Jacob Paul Taylor**, on June 3. He weighed 7 lbs., 14 oz., was 19.5 inches long and 100% healthy. Kellie is the legal assistant to Tereasa Rerko and Barbara Artuso working with our Social Security clients. Kellie and Dean have an older son, Zachary, who will be starting kindergarten this fall.

Dick Galloway's son and daughter-in-law, **Rick and Kathy Galloway**, welcomed their second child, **Sydney Lauren Galloway**, on April 23. She is Dick and Janice's fourth grandchild.

Nathaniel DeRose, son of **David DeRose**, graduated from The Schreyer Honors College of the Pennsylvania State University with highest distinction and with Honors in Finance, his major, and in Economics, his minor. He also received the Evan Pugh Senior Scholar Award. Nathaniel has interned at QRG for the past three summers. He will begin law school this fall at the University of Pittsburgh School of Law.

Michael Quatrini, son of **Vince Quatrini**, graduated from Dickinson College with a B.A. in Political Science. While at Dickinson, he was a member of the Student Senate, Law Society, and the Varsity Soccer team. He also studied abroad in Bologna, Italy. Michael has interned at QRG for the past six years. He will begin law school this fall.

Joe Roth, son of **Barbara Artuso**, graduated from Carnegie-Mellon University with University Honors on

May 16, 2004. His degree is in computer science with a minor in Business Administration. He begins work in July as a software engineer for Northrop Grumman Mission Systems in Columbia, Maryland.

Rob Cirelli, the son of file clerk **Betsy Nicksich**, graduated from Greensburg Salem High School in June. He will be attending the University of Pittsburgh at Johnstown and majoring in accounting.

Tereasa Rerko recently finished her second three-year term as President and Chair of the Board of the Girl Scout Council of Westmoreland. In addition, she was recently elected as the Vice-Chair of the newly formed Westmoreland County Commission for Women and Families. This commission is affiliated with the Pennsylvania Commission for Women.

Barbara Artuso and Dick Galloway recently had leading roles in the Westmoreland Bar Association Musical production, "Law Side Story", which was presented for the Conference of County Bar Leaders in Hershey and for the Westmoreland Bar Association at its annual bench-bar conference.

Vince Quatrini and Barbara Artuso participated in a Multiple Sclerosis Seminar with Dr. Louis Catalano on June 26 at Lakeview in Greensburg. Barbara discussed the requirements for Social Security benefits while Vince discussed long term disability insurance policies, wills, and durable and medical powers of attorney. Over 100 people attended the seminar.

BILLS

By Jacqueline M. Fajt

Bills - no one likes to receive them, but if you understand our billing process, bills become less intimidating.

Each case is assigned a file number which is the first set of numbers that appears on your bill. The next set indicates the type of case. An invoice number is also assigned.

A self-addressed envelope is enclosed with your bill and is slightly smaller than your check. It's our reminder to fold your check so no one can see any personal items on it as it goes through the postal system. The bill should be retained for your records - you can just write your file number or the invoice number on your check.

We accept Visa and MasterCard, and we include an insert with your bill that you can fill in with your credit card number, expiration date and signature. At the office, you also can pay by debit card, using your PIN number on the keypad (but remember - never tell anyone your PIN number).

Different types of cases are managed differently. Costs may be advanced in certain types of cases and not others. Fees are billed on an hourly basis in certain types of cases and are contingent in others, collected only upon successful completion of the case. All of this will be explained fully to you when you first retain our firm.

If you have any billing questions, please call Marie at her direct dial number (724) 552-2727.

WHY YOUR NEIGHBOR'S SISTER IS GETTING "DISABILITY" AND YOU'RE NOT

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Security disability or SSI benefits, such as:

- (a) financial eligibility - the federal government administers two disability programs. Work history, income and resources affect financial eligibility for each of them. You must establish financial eligibility for one of the two programs before your medical condition is even considered. Individuals with no work history may still be eligible for SSI benefits, while some people who are very ill may not be financially eligible for either program.
- (b) age and education - the system for awarding disability benefits is structured so that the older a person is, the easier it is for him or her to receive disability benefits. On the other hand, people with more education are often less likely to receive disability benefits.
- (c) work history - a person's past work history has an enormous effect on the process of determining whether he or she is entitled to disability benefits. A history of working at a skilled job, or at one that was not very physically demanding, can prevent even someone with significant limitations from collecting disability benefits.

Keep in mind when thinking about your neighbor's sister's son that you may not be seeing the full picture, including details of all of the factors listed above. Many of those factors, especially education and work history, are difficult to see but may have a significant impact on the decision in your neighbor's sister's son's case. Furthermore, there are many limitations that cannot be seen, such as heart disease, lung disease, or mental illness.

For all of these reasons, it's best not to make assumptions about who is entitled to Social Security disability or SSI benefits. If you would like to discuss whether you might be eligible, please contact our office to make an appointment with Tereasa Rerko or me. We are the firm's Social Security disability lawyers, and we can assess all of the factors in your individual case and advise you whether disability benefits are an option you should consider.

WHAT'S THE VERDICT?



Lassie is your family's best friend – always waiting to greet you when you arrive home, always friendly and gentle even when your two-year-old son pulls her tail. Lassie is always friendly to visitors and has never even growled at a person since she was a pup. She's never gotten into a fight with another dog; in fact, she never even seems to notice other dogs when you take her out for a walk. Given her stellar behavior and her refusal to leave your yard without you, there is no reason to chain her.

However, on one hot summer day, the neighbor boys are teasing Lassie and throwing stones at her from across the street. They do this for hours on end. That evening when one of the boys comes onto your porch to deliver the popcorn that you ordered from the scouts, Lassie lunges at him and takes a bite out of his arm. Can you be charged for harboring a dangerous dog?

Answer on Page 6

LAYOFFS AFTER A WORK INJURY

By Peter J. Gough, Esq.

Very frequently injured workers return to work following a work injury. Upon return to work, the worker may still be under a doctor's restrictions, or, because of the work injury, may not be able to perform even one aspect of their pre-injury job. If the worker is then laid off, the worker may be entitled to reinstatement of workers' compensation wage loss benefits.

As long as the work injury imposes restrictions or causes an inability to perform even a single work duty, the workers' compensation law considers this worker to be at a disadvantage as compared to non-injured workers. This is so, regardless of whether the worker is laid off for economic reasons or because of the work injury, or for any reason (other than willful misconduct).

The fact that the laid-off worker collects unemployment benefits does not preclude the reinstatement of workers' compensation benefits.

If you have sustained a work injury and have been laid off, give us a call. We can help.

DO I NEED A LIVING TRUST?

By James A. Horchak, Esq., C.P.A.

Perhaps you have seen newspapers or television advertisements for living trusts, suggesting that a living trust can substitute for a will. Often times these ads exaggerate the costs and delays in estate administration using a will.

Before you make a decision about using a living trust, you should know exactly what it involves. A living trust is a separate legal entity established by a specific type of trust document which indicates that a trustee will manage the trust according to written instructions in the trust document. The trustee is often the person who created the trust. Once the trust document is executed, the grantor (the person who established the trust) must place his or her assets in the trust; some examples are preparing a deed transferring real estate from the Grantor to the trust, or transferring ownership of accounts in banks and investment brokerages to the trust. Without such transfers, the trust really amounts to nothing. Many of the companies advertising for living trusts simply set up the trust but never provide assistance in funding the trust and it becomes a worthless but expensive exercise in futility.

While a living trust may be a good idea for some people, it is not for everyone and does not reduce the time or expense of estate administration. In Pennsylvania, handling an estate is faster and less expensive than many other states. Judges are rarely involved with estate administration. Having a living trust will not reduce the Pennsylvania inheritance tax and federal estate tax and will not reduce legal fees.

If you choose a living trust, you will be required to pay for its preparation and also for the transfer of assets into the living trust. Generally, it will be more expensive than a will. After the grantor's death, the trustee will need legal advice on death taxes, creditors and distributions to beneficiaries. With a will, the executor will need essentially the same legal advice.

A living trust may or may not be right for you. For the protection of your family, you should review your individual situation with your lawyer and proceed accordingly.

ELECTION 2004

By Jacqueline M. Fajt

My grandfather, John Costabile, was a veteran of World War II, and was employed as a boring mill operator at Standard Steel in Latrobe for 42 years. He was also an opinionated man with a passion for politics and did not hesitate to argue his point. He impressed upon me at a very early age the importance of Election Day. He told me, "Remember that people died to protect your rights and freedoms. It is not only your right, but also your duty to vote. The very least you can do is take 10 minutes two times a year to go vote and honor them." As a result, I make it a point to vote in every election. Moreover, each time I walk into the voting booth, I remember my grandfather, think of the many that have fought and continue to fight for our rights and freedom, and utter my silent thank you.

In a few months, we have the opportunity to go to the polls cast a vote for the candidates. Historically, voter turnout is higher for a Presidential election than other years. The U.S. Census Bureau reports a voter turnout of 60% in 2000. However, that number does not represent 60% of the population - it represents 60% of those registered to vote who actually voted. Therefore, in the 2000 election only 60% of the registered voters actually cast a ballot. According to a July 4, 2004 report on the CBS program *Sunday Morning*, 75 million people that were registered to vote did not do so.

The staff at QuatriniRaffertyGalloway feels that it is our responsibility to encourage everyone to vote. We also feel that it is our responsibility in this very critical presidential race to register people who have not voted in the past. Consequently, we have organized a voter mobilization group. Our goal is twofold. First, register people to vote. Secondly, guarantee that the new registrees vote on November 2nd. We are identifying clients who will not only go out and get people registered, but also drive the new voters to the polls on November 2nd. We invite you to join us. Please contact me directly at (724) 552-2758 to get involved with this project. Also, if you, a family member, or friend are not registered, contact me for a voter registration form or log on to our website, www.qrglaw.com, and click on the icon shown below to register online.



DATES TO REMEMBER:

October 4, 2004 is the last day to register in order to be eligible to vote in the 2004 election
October 29, 2004 is the last day for the Board of Elections to receive voted absentee ballots
November 2, 2004 is Election Day

THE INS AND OUTS OF SLIP AND FALL CASES

Joyce Novotny-Prettiman, Esq

Some of the most serious injuries our clients suffer are as a result of falls on stairs, ice and other obstacles. This type of case, commonly known as slip and fall cases, are also some of the most difficult cases that our office handles. The most important thing to keep in mind is this: when an accident like this happens, it does not automatically mean that someone was at fault.

The first thing that we need to know when reviewing a slip and fall case is why the injured person was at the property where the injury happened. Pennsylvania law classifies people who enter onto land into three categories: invitees, licensees and trespassers. Each classification of land entrant is treated differently by the law.

An invitee is owed the highest duty of care and would be someone who has entered onto property of another for business purposes. The best example of an invitee is a person who enters a retail store. In this situation, a landowner must take reasonable steps to protect the entrant from dangerous conditions of which the landowner has knowledge or should have had knowledge, including the requirement that the landowner inspect the premises to protect business visitors. The second classification is that of a licensee. This person usually enters land with the permission of the owner but for his own purposes. A social guest is one person that falls within this classification. With a licensee, the land owner must know that a condition presents an unreasonable risk of harm and exercise care to correct or warn of the condition of which the entrant would not have knowledge. The lowest duty of care is owed to a trespasser. The possessor of land need only refrain from willfully or wantonly injuring a trespasser.

The person who enters premises owned by another has responsibility for his or her own safety under the law. If there is a danger that is known or obvious, the person who enters onto the land must avoid the danger.

If you are involved in a slip and fall accident, here is what you should do:

- ◆ obtain the appropriate medical treatment immediately
- ◆ report the fall immediately, in writing, to the person in charge of the premises
- ◆ if possible, take a sample of what caused your fall with you and preserve it
- ◆ get the names and phone numbers of all witnesses to the accident
- ◆ keep your shoes and clothing in a safe place (do not launder your clothes and do not wear your shoes)
- ◆ return to the accident scene to obtain photographs as soon as possible
- ◆ do not talk with insurance company representatives without first talking with an attorney

For homeowners, here are some tips:

- ◆ make sure that you have adequate lighting
- ◆ repair any crumbling or cracked concrete or walkways
- ◆ be sure that you have appropriate handrails in all stairways
- ◆ all stair heights and tread widths should be identical and adequate
- ◆ be sure that carpeting and rugs are secured to avoid moving and sliding
- ◆ keep all walkways free of snow and ice

Remember: adequate homeowner's insurance is your best defense

There are many other factors that make these cases complicated. At QRG, we will be happy to review the specific facts involved if you have been seriously injured as the result of a fall.

DID YOU KNOW ...

that we review all our open files each spring? We call it File Review Day. All files are pulled from the file cabinets and the attorneys look at each file to which they are assigned. Time is taken to determine if there is outstanding work that remains and to develop a long-term strategy. If all work is complete, the file is closed and is moved to storage where it remains for 7 years. After that time the file is destroyed to protect its confidentiality. In 2004, over 2,400 files were reviewed by our attorneys.



Now that the tax filing deadline has passed, it may be time to re-evaluate the amount of federal tax being withheld from your paycheck.

If you had to pay a substantial amount of tax last filing season:

- You may want to decrease the number of allowances you are claiming with your employer by filing out IRS Form W-4. (If married, your spouse can do the same.) This will authorize your employer to withhold more taxes from your pay.

If, on the other hand, you received a substantial refund:

- You and your spouse may want to increase the number of allowances you are claiming. In doing so, the amount of tax being withheld by your employer will decrease, causing your net pay to increase.

If you have questions about your federal tax withholdings, give me a call at (724) 552-2745.

ANSWER:

Most people are not aware that Pennsylvania has a law that permits the filing of a complaint before a district justice for the summary offense of harboring a dangerous dog. (3 P.S. §459-502A) Under the circumstances outlined above, given Lassie's docile behavior in every instance except upon provocation by the neighbor boy, it is doubtful that it could be proven that Lassie is a "dangerous dog". If, however, a court found that Lassie was a "dangerous dog" under the law, then your family would be required to keep the dog securely confined from that point forward, or suffer a fine and other possible consequences for each violation.

The next question is whether you could be found responsible for money damages to the boy who got bit. There is a general misconception that a dog owner cannot be liable for a dog-bite incident if a dog has never bitten a person before, also known as the "one free bite" theory. The law in Pennsylvania requires that the past behavior of the dog and the circumstances involved in the bite incident be reviewed to determine if an owner should have known that the dog in question had vicious tendencies. If a dog has a history of growling, fighting and otherwise acting in a threatening fashion, a dog owner may be on notice, even if the dog has not previously bitten a person, that a dog may be dangerous. Also, if Lassie is not on a leash or on your property when she bites someone you can be pretty sure that you are going to owe damages because the Dog Law of Pennsylvania requires every dog owner to keep the dog secured on the owner's property or suffer the consequences.

Since homeowner's insurance is your first line of defense where a dog has bitten someone, it may be a good idea to review your homeowner's insurance policy to be sure that your policy provides appropriate coverage and does not exclude dog attacks.

Do you have a friend who would be interested in receiving the LEGAL UPDATE?

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Do you have comments or suggestions regarding future issues of this newsletter? Are there topics you would like to see covered?

Mail to: QUATRINI RAFFERTY GALLOWAY
550 E. Pittsburgh Street
Greensburg, PA 15601

From time to time, we will be featuring articles from people and organizations in our community, about subjects which we feel may enrich your life. Over the years, we have formed relationships with many individuals, businesses, and organizations. We thought we should share some of their wisdom and experiences with you.

The Community Foundation of Westmoreland County ... Making a Difference

By Bobbi Watt Geer

Most people know the word "foundation." To some, the word means "a base or platform on which a structure sits." For others, a foundation is an organization that gives money away, or gives grants to various nonprofit agencies. These grants typically support charitable work, such as the prevention of homelessness, educational programs, student scholarships, the arts and economic development programs. There are, however, many different kinds of grant making foundations, including corporate, family and community foundations. Westmoreland County has had its own community foundation for almost nine years.

Community foundations, like their corporate and family partners, do make grants to local nonprofits, but they are unique in many ways. Community foundations focus their efforts in a particular geographic region; they focus on making grants in their local communities, and they make these grants from a number of different donor-created component funds. There are currently over 650 community foundations in the United States. Through the efforts of several community leaders, including QuatriniRaffertyGalloway's Vince Quatrini, The Community Foundation of Westmoreland County was founded in 1995.

Since its inception, The Community Foundation of Westmoreland County has made over \$4 million in grants to support vital programs and services that improve the quality of life in our community. These grants are made from the collection of funds administered by the Foundation. The funds are established through local donors who want to support local causes. In other words, the only way that The Community Foundation can make grants is if donors establish funds through their contributions.

Some people might think that only wealthy residents have established the charitable funds administered by The Community Foundation. The fact is, though, that anyone can be a philanthropist — a contributor who makes a difference in our local community. There is no minimum donation, and many of the funds administered through The Community Foundation of Westmoreland County are the result of accumulated small gifts.

In particular, some donors choose to establish a charitable fund within The Community Foundation through a bequest in their wills. These gifts, called "planned gifts," can be a meaningful way to leave a legacy for the community. The Community Foundation of Westmoreland County can work with you and your attorney to create a fund that supports charitable work that is important to you.

The Community Foundation of Westmoreland County is building a better community through promoting local philanthropy and by distributing these charitable dollars for vital programs and services in our community. If you would like more information about how to make a difference through The Community Foundation of Westmoreland County, please call us at (724) 836-4400 or visit our website at www.cfwestmoreland.org.

Bobbi Watt Geer is the president of The Community Foundation of Westmoreland County, a position she has held since September 2000. She is responsible for the day-to-day operations of the Foundation, which includes helping donors make gifts, managing the grant-making process, administration of assets, community convening and public relations and marketing for the Foundation. Prior to joining the Foundation, she was the development and public relations director for St. Anne Home in Greensburg. She has also worked in various capacities for the American Heart Association throughout southwestern Pennsylvania. Bobbi currently serves on the board of directors for Grantmakers of Western PA, co-chairs the United Way's Building Strong Neighborhoods & Communities Impact Council and is a member of the Westmoreland Heritage Committee. She is an active member of her church where she serves as a lector, as well as a former member of Pastoral Council and former newsletter editor. She is also an active member of the Greensburg Rotary Club and serves on the club's Grants Committee. She has previously served as treasurer of the Westmoreland County Blind Association board of directors and on the Ethics Committee at St. Anne Home.

Bobbi is a 1987 summa cum laude graduate of the University of Pittsburgh at Johnstown where she earned a Bachelor of Arts degree in communication and public relations. She is currently enrolled in the Master of Science in Nonprofit Management program at Robert Morris University. Bobbi grew up in Apollo and now resides in Greensburg with her husband, Christopher, and eight year-old son, Sam.

MEET THE STAFF

JOYCE VIVIO, OFFICE ADMINISTRATOR

Joyce has been the Office Administrator of QRG for nearly 15 years. She has over 20 years experience in the legal field, previously working as a legal secretary. Joyce is responsible for the overall administration of the office, including the hiring of new staff, decisions as to technology improvements, and personnel policy matters. She is involved in planning and forms development in all practice areas of the firm, and particularly enjoys customizing the various office software programs to more efficiently serve the needs of our clients and staff.

Joyce graduated from California University of PA with a B.A. in Political Science. Joyce is a lifelong resident of Monessen where she lives with her husband, Jeff, retail manager of Dollar General in Belle Vernon, and their dog Rocky. Rocky is part yellow Lab and part Shepherd, and was chosen as the dog-of-the-month—"Mr. September" in the Humane Society of Westmoreland County's 2004 Pet Calendar!

Joyce is the lead pianist of her church's worship team, Christian Center in Belle Vernon, and is involved in various contemporary worship music activities and seminars. She enjoys spending time with her family, is an avid Penn State fan, and a loyal Kaufmann's shopper.

If you are interested in putting a photo of your pet in the Humane Society's 2005 calendar, contact them at (724) 837-3779 or pick up an entry form at our office.

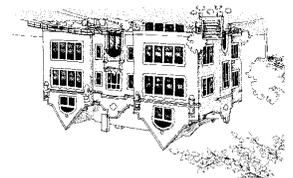
For a small donation your pet can be on the calendar and you can donate to a worthy cause!

SEPTEMBER



ROCKY

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