



FOR PENNSYLVANIA YOUNG  
LAWYERS, HERE'S WHAT'S...



# AT ISSUE

A PUBLICATION BY AND FOR THE YOUNG LAWYERS DIVISION  
OF THE PENNSYLVANIA BAR ASSOCIATION

## TIPS ON PRACTICING LAW IN RURAL AND SMALL-TOWN PENNSYLVANIA COUNTIES

*By Timothy S. Burns*

I've practiced law both in a major city and in rural Pennsylvania, and I'd like to share my perspective on the differences. During law school, I worked two years as a law clerk for a downtown Pittsburgh law firm; upon graduation, I have more than four years' experience clerking for two Cambria County judges in addition to having my own private general practice. With that, I hope that this article provides some tips to those "big city" lawyers who have to travel to one of our more rural counties, which in turn helps you have a very meaningful legal experience there.

### **Know Where You Are Going**

My first tip may sound like common sense, but it can avoid some serious problems: Know where you are going. Some rural and small-town courthouses tend to be out of the way, off of the main highways — not necessarily located in the largest town in the subject county. Traveling to a rural magistrate's office can be even more of an adventure if you do not know where you are going. My advice is to get precise directions ahead of time. Granted, anyone can get to any county from the turnpike, but actually *reaching* the courthouse or a magistrate can be another story. Besides the directions, have the judge's or magistrate's phone number with you in case you are running late or get lost. As a courtesy, it would help to call the respective judge's chambers ahead of time (perhaps when you enter your appearance), and explain that you are an out-of-county lawyer and not familiar with the area. In fact, the judicial staff may even give you directions and tips on parking, etc. Most importantly, if you are going to be late for whatever reason, *call* the judge's chambers. If you have the courtesy to

call ahead of time, odds are the judge will accommodate you, but if you do not call, odds are the judge may proceed without you.

### **Know Your Judge**

The last sentence in the previous paragraph leads me to my next point: know your judge. If you are traveling to a new county, it does not hurt to find some background information on the judge you will appear before. Practical information like the judge's education or professional experience could give you an indication as to how the judge may rule, or you may find that you have some-

thing in common that could break the ice. More important, you should find out about the judge's temperament and courtroom demeanor. Questions such as the following are important: Does the judge like out-of-county attorneys (if not, make sure you follow the rules!)? Does the judge permit extended legal arguments, or does he/she expect you to get to the point? Will the Judge permit you to be a few minutes late? The list can go on and on, but these are questions you should know ahead of time. Above all, though: be respectful, you are a guest. Furthermore, remember that

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## THE WAR ON DRUGS FACES A BUDGET CRUNCH

*By Scott P. Sigman*

In June, Philadelphia County District Attorney Lynne Abraham was faced with a \$2 million reduction in her allocation by the Philadelphia City Council for the second consecutive year. She was forced to shut down the Special Narcotics Prosecution Unit and to reassign all of the elite unit's attorneys.

Special Narcotics Prosecution was a unit formed after a review of a prototype unit that aggressively prosecuted violent narcotic offenders in one part of the city, West Philadelphia. Since the prototype unit was so successful in reducing violent crime and attacking upper-level drug organizations, the decision was made to go citywide and Special Narcotics Prosecution was designed to do just that. The unit became a nationwide model through the U.S. Department of Justice's Weed & Seed Program.

The unit's purpose was to investigate, successfully prosecute and achieve long prison sentences for some of the city's worst drug offenders. Assistant district attorneys would work pre-arrest with law enforcement and the community to identify and target drug organizations that distributed large quantities of crack cocaine, cocaine, methamphetamines, heroin, prescription pills, PCP and marijuana throughout the city.

Once targeted, the unit's assistant district attorneys would work with law enforcement to investigate and arrest the offenders. Assistant district attorneys would then prosecute the offenders using "Community Prosecution" and working closely with law enforcement. Community members would appear at

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## WHAT'S AT ISSUE

November is here already, and PBA Committee/Section Day is right around the corner! Since the YLD Summer



**Clark**

Meeting in the end of July, the YLD has been very active and has accomplished much in a short time! PBA President Bill Carlucci joined me in meeting with law students from both Penn State University's Dickinson School of Law and the Harrisburg campus of the Widener University School of Law (we also visited the James E. Beasley Temple University School of Law and Villanova University School of Law), where we had great discussions with law students about the PBA's burgeoning Law Student Division. We discussed the many opportunities the PBA offers to law students, including the tremendous substantive legal information offered by our committees and sections, the chance to hold leadership positions and the ever-important networking with judges, legislators and established members of the senior bar. With our plans well underway to visit the remaining three law schools in Pennsylvania, the division will surely grow even larger. We welcome those new Law Student Division members to the PBA, and look forward to a long and fruitful relationship.

The YLD also held two great caravan events: one in Altoona (Zone 8) and one in State College (Zone 11). The PBA cosponsored young lawyers attending an Altoona Curve baseball game in August, which was both a success and a great time! YLD members got to socially interact with local judges, PBA leadership and other young lawyers from Pennsylvania. In State College, Centre County Judges Brown and Kistler discussed their courtroom preferences in October with 20 local young lawyers over breakfast at the Nittany Lion Inn. These caravan events are a great way to bring young lawyers together with members of the bench and

*Jennifer J. Clark is the current chair of the PBA Young Lawyers Division.*

PBA leadership to share ideas — and, of course, network — all while having a good time! Look for the YLD caravan event in your zone!

The Nov. 17 Committee/Section Day meeting is fast approaching. Young lawyers are invited to attend the YLD business meeting where YLD committees will break out for further planning of this year's projects. Following that meeting, law students who attend are invited to join the YLD and PBA leadership for a reception. For a list of our YLD committees, please visit our Web site at [www.pabar.org](http://www.pabar.org). I encourage all who are interested in those committees to sign up and join your colleagues in reaching out to our communities with legal education and other public service projects, as well as lawyer education opportunities!

Speaking of educational initiatives, the Statewide High School Mock Trial Competition is once again underway. This year's case materials were posted Oct. 24 on the PBA Web site. Teams are sending in their applications and preparing to compete in another year of high quality courtroom finesse, for which our Pennsylvania high schools have become known. The time is coming for all of you to volunteer to serve as presiding judges, jurors (scoring judges), courtroom deputies and attorney advisors for participating schools. The competition would not be the tremendous success that it is without your continued support of the program and active participation in the competition; please keep an eye out for the upcoming competition, and volunteer, volunteer, volunteer!

I look forward to seeing you all at the YLD business meeting during the Committee/Section Day conference in Harrisburg on Nov. 17! Feel free to e-mail me with any comments or questions! Hope to see you all there!

## AT ISSUE

*At Issue* is published quarterly by the PBA Young Lawyers Division. Editorial items, news material and correspondence should be sent to the PBA Communications Department, P.O. Box 186, Harrisburg, Pa. 17108-0186.

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# TIPS ON PRACTICING LAW IN RURAL AND SMALL-TOWN

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many rural and small town judges typically have an extensive amount of past trial experience whether it be serving as the county's district attorney or else as a prominent trial attorney in the community. In other words, the judge knows what he or she is doing when it comes to trying a case. That judge may also know some of the tactics that are used by opposing counsel, so keep that in mind when practicing in front of a small town or rural judge.

## Know Your Courthouse Staff

Besides knowing your judge, it may be more important to know the people around the judge — the judicial staff and other courthouse personnel. Remember, in a smaller county, the impression you make on the judicial staff can travel throughout a small Courthouse within hours, if not minutes. Be mindful of this. Give the judicial secretary, tip staffs and judicial law clerk the same respect you would give a judge.

Also, get to know your court administrators and be nice and respectful to them. In a rural county, this is an office of anywhere from one to three people whose responsibility is scheduling hearings. It is the nerve center and "eyes and ears" of a courthouse. If you are an arrogant, pompous attorney, they may give no consideration to your travel time from Pittsburgh or Philadelphia, but if you are a polite, sincere individual who introduces him- or herself, odds are the administrators will try their best to schedule a hearing to accommodate your travel time.

Lastly, be considerate to the court stenographers. If you need a transcript from a hearing, request it that day, not the day before you need it. Remember too, that the stenographers must be paid in advance, so it may take a few days for your check to arrive in the mail unless you overnight it. And above all else, respect the stenographers. If you "demand" a transcript, you may not get it in time if that stenographer is overworked, but if you are friendly and polite and the stenographer realizes the urgency of your request, you may get the transcript in rather quickly.

## Know Your Local Rules

One of the unwritten rules in small town

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or rural counties is that if you choose to practice in that county, you will follow that county's rules. One of the worst mistakes that metropolitan area lawyers make when coming to a rural county is to call the judge's chambers the day before a five-minute hearing and ask to have a teleconference because of the "long drive." In the home county I practice, only in extreme situations will teleconferences be allowed — and usually only for witnesses. Therefore, if you are going to ask this question, do not do it the day before the hearing; if you do ask the day before, do not whine if you are told that you have to be there in person.

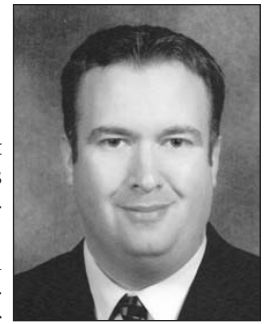
In another instance, I know of an unnamed rural county that actually gives preference to its local attorneys by seniority when it comes to scheduling motions and arguments. In other words, if you are a local attorney with seniority, you will go first, and if you are a young attorney from outside the area, plan to be there all day. This is an important example of knowing the rules of the county where you will handle a case. You might think you will only be there for a few minutes, when in reality it could be all day. It's obviously not a fair practice, but this is the county's local rule. As such, it is important to keep in mind a county's court calendar dates, requirements for filing briefs, filing fees, etc. The courthouse's prothonotary's office has all this information and is more than willing to provide it to you.

## Know Local Counsel

If you are involved in a major litigation matter, it may not hurt — and, in fact, I advise it — to obtain local counsel. It's common sense: Local counsel knows the ins and outs of the courthouse, the local rules, the judges and, of course, other counsel. My advice would be to contact an experienced attorney first, and if he or she cannot assist you, ask for a referral. If you do obtain local counsel, respect him or her. Local counsel should not be treated as a law clerk or an associate; rather, that local counsel is your representative in court, and should be treated as such. Accordingly, agree to a fair and reasonable fee agreement, and pay him or her.

## Never Underestimate a Small-Town Lawyer

The one trait among lawyers that I cannot tolerate is arrogance, whether it's from a fellow small-town lawyer, or one visiting from the big city.



**Burns**

While most of my experiences with big-city lawyers have been very professional and cordial — in fact, I consider many my friends — every so often a lawyer from Pittsburgh or Philadelphia will come to town thinking they are the second coming of Johnny Cochran, and treat us like a bunch of country bumpkins. Every time that has happened, I have been successful, because the opposing counsel does not take us seriously. This can hurt your practice wherever you practice — you always, always respect opposing counsel. Remember, a small-town lawyer has to be a jack-of-all-trades whether it be civil, criminal, domestic, orphans' court, etc. And typically, a small-town lawyer can have courtroom experience at a much younger age than attorneys in bigger cities. We know what we're doing. With that, we will gladly accommodate you as an out-of-county attorney if you show us the same respect.

## Final Thoughts

I love what I do (and I say this frequently to people). Practicing law in a small county like Cambria County is a very rewarding experience, because you really have the opportunity to help people and have a positive impact on their lives. With that, I hope that if you are an attorney from any of our commonwealth's larger cities, you have the opportunity to handle a case in a smaller county and it is a rewarding experience. For me, it is always a pleasure to have out-of-counsel come to our county whether I serve as their local counsel or if they are here before one of the judges I clerked for. I enjoy showing counsel around our 200-year-old courthouse and our magnificent courtrooms (pillars and all), and in turn, making new friends. As such, I hope to see you on your next trip to rural Pennsylvania.

# TRIAL TIPS FOR YOUNG LAWYERS

By Matthew J. Parini

It is often said you have to walk before you can run. I have tried to remember that advice when tackling a new problem or task, and I have found that trying cases is no different. Too many times we get advice that is helpful, but without the proper context it goes over our heads. Or we understand the advice, but are looking for something more basic. Regardless, I think there are several ways for new lawyers to make handling cases headed for trial a lot easier.

## Conduct Discovery by Preparing for Trial

There are contexts in which discovery is used solely for the purpose of seeing what the other side has in the way of evidence. I suggest using discovery to make trial easier. One of the lesser-used discovery tools at your disposal is the Request for Admission. A party is allowed to request the truth of whether any document is or has been genuine, authentic, correct, properly executed, properly signed, delivered, mailed or received (Rule 4014). I have seen attorneys bring lay or expert witnesses to address issues where the opposing counsel would have readily agreed with the facts they were trying to prove if the matter was pressed through discovery. If they deny the authenticity or any of the other reasons identified in the rule, you can follow up with interrogatories exploring the basis for their objection. Nine times out of ten, once you are aware of the problem you can provide the opposition with the evidence necessary for them to allow the document's admission. Now ask yourself if admitting a document on the record before the jury is even picked, which allows you to refer to it in opening, is easier than waiting and fumbling through the boring questioning of a record custodian.

Depositions should be used rarely for discovering facts, but rather for winning the trial. I cringe when I hear attorneys speak of taking depositions for settlement exploration. The best way to establish a strong settlement position for your client is to be strongly positioned for trial at the close of discovery. The other side will be aware that you have a good case. What better way to try to settle a case than justifying your settlement position by saying you will win at trial? Then, if the case

does not settle, you will be ready for trial.

The best way to use depositions to simplify your trial is to ask your questions so that they can be easily used at trial. You want to ask simple, straightforward questions so that if you need to impeach the witness, you can refer to just one question instead of reading a page of questions and answers to put the admission in the proper context. If you are asking questions and get a good answer, make sure the question was easy to understand and does not rely on the assumptions that were made in earlier questions.

Of all the tips given to me to simplify trial preparation, the best I ever received was what to do with a deposition transcript after the deposition is done: Index the facts by page and line so they can be easily retrieved at trial. Have a list of all of the facts down the left hand side of the page with the page and line where they appear on the opposite side. Organize the facts by topic. This will make impeachment of the witness much easier, should you need to do so.

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## Use Civil Procedure to Eliminate Elements

One of the least-used techniques for reducing the number of issues you need to prove at trial is the use of summary judgment. You do not need to file a summary judgment motion on all issues or elements of a case. You can file a motion on "any element" or "defense." If you have a breach of contract action where the differences are focused on damages, file a motion on the issue of whether a breach occurred. File a motion on the issue of the causation of injury if the defense medical expert says some injury occurred. You will be surprised at what courts will grant on these motions. Look at the pleadings to see what defense may have been thrown in to see what can be eliminated. If granted, this is an entire issue you do not have to remember to prove at trial. Instead, you will spend every minute of preparation and trial on the issues you need to win. Ask yourself if you would rather try only one element of

a breach of contract action or line up witnesses and exhibits on all elements.

There is another reason a summary judgment motion should be filed. It will force the opposition to reveal all facts **Parini** they have in sup-

port of the issue. As the saying goes, it is time to put up or shut up. This will prevent you from guessing or worrying about what the other side has to prove their case. As long as you have cleared ethical hurdles to filing the motion, this can be a very effective method to reduce anxiety and simplify trial preparation.

## Simplify the Complex

One of the most difficult aspects of any trial is the cross-examination of the expert witness. I do a lot of injury and insurance work, and the cross-examination of the medical expert is always tricky. It is very difficult to beat a medical doctor on the medicine or to beat the handwriting expert on the "science" of his or her trade. Instead, simplify and focus on real-world differences.

First, focus on the things that the expert agrees with your expert about. This always helps by making jurors think you are getting concessions from the expert. Then, you can focus on the differences. You can transition by saying, "Now that we have established what is in agreement, let's focus on the differences." At this point, you are halfway to an effective cross. When you get to the differences, try attacking real-world differences between the experts that jurors would think were important. With the cross of defense medical experts, the amount of time the expert spends with the plaintiff in the exam is an easy one. When compared to the treating expert having spent many hours over a period of months examining the plaintiff, you will have gained ground on the credibility issues between the two experts.

Hopefully, these tips will simplify your next (or first) trial making you more confident and focused. This will help with your presentation, save time and ease anxiety.



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# THE WAR ON DRUGS FACES A BUDGET CRUNCH

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preliminary hearings and bail hearings to ensure that the offender remained in custody on high bail. The community members would also appear at sentencing to ensure that the offenders received the toughest appropriate sentences allowed under the law.

This approach led to an immediate reduction in street violence and reported violent crime. There was also an increase in drug, gun and asset seizures associated with this hands-on prosecution.

In a recent drug prosecution in the North Philadelphia 26th District Weed & Seed Site, a convicted crack dealer named

Juan Camargo was identified as a public nuisance by Weed & Seed. Camargo had been arrested for the 19th time for selling crack cocaine on the 2100 block of Orianna Street. This block sits one block from the McKinley Elementary School and just five blocks from Norris Square, a once notorious, needle-filled "drug user" park that was reclaimed by the neighborhood; the reclamation was led by community leader and Weed & Seed board member Sister Carol Keck. Camargo, feeling confident after numerous acquittals using a high-priced private defense attorney, chose a public defender for the first time. This case led to a conviction, but Camargo was sentenced to minimal jail time and he quickly returned to 2100 Orianna Street.

Not long after Camargo returned to the streets, he was arrested again for crack sales from 2100 Orianna Street.

This time around, Camargo was prosecuted by Special Narcotics and under the "Community Prosecution."

Now, due to current budget restraints, this type of prosecution faces uncertainty. As the violence in our city neighborhoods increase and with the influx of high-quality heroin and crystal methamphetamines to Southeastern Pennsylvania the need for Special Narcotics Prosecution in our county district attorney's offices is vital to protect the community as a whole.



**Sigman**

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## ARE YOU MISSING SOMETHING?

If you haven't given the PBA your e-mail address, you're missing out on one of the latest member benefits, the *PBA E-News*. This electronic publication features up-to-the-minute announcements of PBA legislative action, special events, member benefits and meetings. The *PBA E-News* also contains "Court Summaries" — a popular feature of the *Pennsylvania Bar News* — two weeks before the print version.

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