



Commentaries

“Stand In The Place Where You Live.” R.E.M. *September 2009*

Letter from the Editor

Dear Members,

Welcome to
September, and the
leaves of Fall.

If you read last
Sunday’s New York
Times, you will have
seen a front page
article about water
pollution in West
Virginia, and the work
of members Ben Stout
and Mary Ellen
Cassidy, whose efforts
helped bring a fresh
source of water to the
citizens of Printer,
West Virginia.

The Center for Health
and the Global
Environment at
Harvard Medical
School has asked Ben
and Mary Ellen to
participate in an

upcoming national
conference in D.C. in
October concerning
the problems and
solutions to the
environmental
challenges presented
in the Coalfields of
WV, and we take this
opportunity to
congratulate Ben and
Mary Ellen for their
excellent scientific
work over the last few
years in Southern
West Virginia.

We hope you enjoy
tonight’s dinner—a
mix of the Celtic and
Italian, which
member Victor Greco
“claims” he will
outdo as soon as he
gets his chance!

Cheers!

 CC of B.

Tullamore Dew Profiles Shari McPhail

Shari McPhail
was born in
Youngstown,

Ohio on October 23, 1969.

Her parents had
recently relocated to
Youngstown from
Wheeling, after her
father graduated
from West Liberty
College. Within a
few years, Shari and
her family moved to
New Jersey, where
she lived until
graduating high school.

After graduating from
high school in 1987, Shari
attended the University of
Florida selected based
upon the college’s rating
as the “#1 Party School”
by Playboy magazine.
After a fun-filled but
academically unproductive
year, Shari transferred to
Temple University in
Philadelphia, Pennsylvania
where she graduated
with a degree in Elementary
Education (cum

laude). While in Philadel-
phia, Shari married and
had two sons.

In 1995, Shari and her



family moved to Grand
Forks, North Dakota. A
few months later, she
divorced. In 1998, Shari
graduated from the
University of North
Dakota School of Law
where she was an Associ-
ate Editor of Law Review
and Moot Court
Champion. After
graduation, Shari prac-
ticed law in Bismarck,
married, and had two
more sons.

Con'd on P. 2

Off the WALS:



News of the Wheeling Academy of Law & Science (WALS) Foundation

As we like to say, "If those who believe in the Justice System don't educate the public, those who don't will."

by **Barbara Knutsen**

We are proudly entering our 7th year in the schools for The WALS Foundation Mock Trial project. We are scheduled: so get ready for that call to help out!

After recently viewing a WEEKEND TODAY show: GENERATION RX, it is even more clear that our mock trial project needs to continue educating the students about the justice system and how making a wrong choice of misusing RX drugs could lead right up to a day in court.

That program focused on the alarming statistics of teenagers abusing RX drugs. They reported the most popular RX drugs that are abused, how they are acquired, how they can harm you and the legal consequences of


taking them. This is actually the agenda we use in our prep for the mock trial on Day One, and has been for the last two years.

This year we will also spend a little time talking to our students about the role RX drugs and other drugs played in Michael Jackson's untimely death. All students know of Jackson, so I'm sure I will have their undivided attention on this one. I will be discussing this issue and getting information from Cyril H. Wecht J.D., M.D., from The Cyril H. Wecht Institute of Forensic Science and Law.

GOOD NEWS: WALS Foundation won a substance abuse competition grant from the Appalachian Regional Commission (ARC) to go into eight additional traditional, at-risk and distressed counties in WV.

Nearly 1,000 more students will participate in our project that addresses the RX abuse issue.

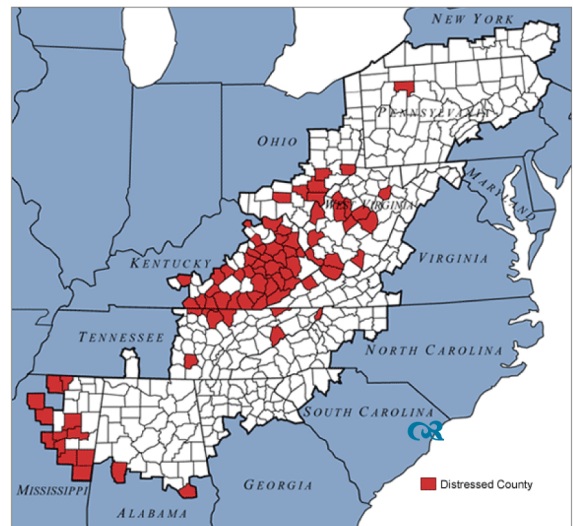
When I received the call from the Director of ARC, he said they wanted to fund us and that everyone on the review

committee thought our idea was *terrific*. The funding will start in September 2009 and go through the fall of 2010, including two school years. 



Mock trials will now be held in the following WV counties: *Ohio, Marshall, Kanawha, Wetzel, Tyler, Wyoming, Clay, Braxton & McDowell*

ARC-Designated Distressed Counties, Fiscal Year 2009

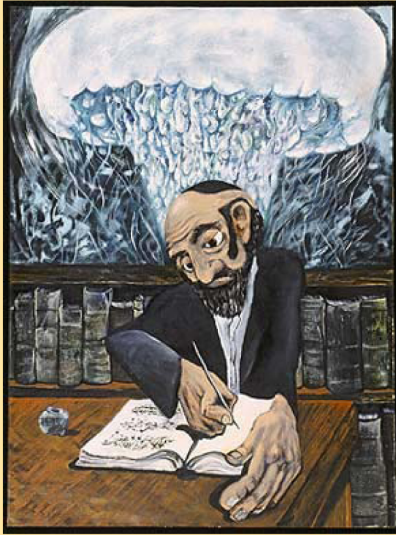


Prepared by the Appalachian Regional Commission

Data Sources:
Unemployment data: U.S. Department of Labor, Bureau of Labor Statistics, 2004-2006
Income data: U.S. Department of Commerce, Bureau of Economic Analysis, 2006
Poverty data: U.S. Department of Commerce, Bureau of the Census, 2000

WALS Foundation
Participating Lawyers
THANKS!

Ask Bartleby



Dear Bartleby,

I wondered what you would have to say if I asked you nothing in particular?

Anonymous

Dear Anonymous,

“But what is the argument, my friend? What?”

You have no argument? Are you crazy? There must be an argument. We cannot practice law without an argument. Worse, indeed--we cannot practice life!”

The gracious advocate only smiled; his intense stare making his opponent nervous.

The opponent continued. “Please, argue with me--Help me to know I’m right--or wrong! Insult my statement. Challenge me! Good God, call me a liar!”

Still the advocate smiled, unable to conceal the depth of his eyes. He would not engage, but nodded to the opponent and quietly left the room--leaving he who knew only combat to find solace among his dead books.

The opponent sank slowly into his chair, and buried his face in his hands. He had not been prepared for nothing.

Yours truly,

Bartleby, The Scrivener

La Cerca - continued from p.5

Then he became his own Michelangelo of life, in every moment left to him. Then he became for himself the “Overman,” and for the world, “The Good European.”

Not another god. Not even a demigod. A modest enough title, “The Good European.” But since his predictions (that crude and unmitigated “Will to Power” would lead to the devastation of wars of annihilation) have come to pass in this century, this very reference may

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be the boldest, (as well as the most humble) promise of renewed life yet to come.

This is how Schmidt wrote of the manuscript, interpreted its words, day in, day out. He had written much more, of course. He had, after all, been at the museum for five years, when he penned these particular words, on November 9, 1989.

But this day, among others, was particularly exciting. The Berlin Wall was coming down. East Berliners and West

Berliners were embracing in the streets, across the barricade of time, in this very Moment; and he thought his Germany may yet again be re-united.

All of Europe, he thought, was on the verge of a great thaw, of living together, again.

And his excitement was such that he could almost feel the blood surging through his body. Surging through his mind. And as he placed his pen back in the inkwell, eyeing as he did his eagle and his

snake, a sharp pain seized his right temple, and as his hand went instinctively to his head, he slumped back, unconscious, in his chair.

Fredericka was first to react: “Herr Doctor! Are you o.k.?” “Tatiana, find the guard!” “Call the hospital!” “Herr Doctor Schmidt has collapsed!”

*Prior issues of the Newsletter, including prior chapters of La Cerca can be accessed on the WALC website:
www.firststatecapitol.com*

It is always easier for the sentient animal to tend to the Dionysian. The Will to Power contains all the evolutionary power of survival. Naturally selfish, is has aggrandizement of the individual as its only command. It can spit out rationalizations and excuses at will, because it's about the gratification of the animal, its lapse into oneness with nature. But the Professor teaches that those excuses can rationalize away every injustice in the heart of man; every injustice of the world. So much easier to ingest the intoxication of herbs and juices, to forget one's duty. So much easier to sleep.

But just as every child is born with the natural will to power, every child is also imbued with a natural sense of justice, or fairness, albeit one that can be manipulated, framed, or even damaged by social conditioning. Accordingly, The Transfiguration offers as its humble yet radical truth how the Will To Power blends with a Will Towards Justice in the natural order of things, in the natural order of the mother nurturing her child, in the natural order of man and woman nurturing their community, in the natural

order of the best of states nurturing the community of nations, all in the service of life.

The healthy human, raised well, loved well, will always exude power; but if his or her natural inclinations toward justice have not been extinguished by those who have come before, they will also love; their family, their friends, the world—— and act accordingly.

Not for him the shadows of a world without gods, but the light of a world of beauty and justice, among men, among nations—where the highest symbol of power is manifest in the forms and structure of their works of art.

Where life is not taken so seriously as to worry about death, but too seriously to want to live it unfree. And where one loves their friends enough to challenge them—his “furthest love”—(as he tried, and failed, with Wagner) to surpass even their own parochial interests.

And he credits many names throughout history, of all rank, as being examples in service of that goal. Names like Jesus of

Nazareth, who taught, to the everlasting deafness of his followers, friendship rather than hate ; peace, rather than war. Or others, like Immanuel Kant, who may have been too enamored of the power of ethical “reason” to suit him, but was astute enough to recognize that “perpetual peace” (the flourishing of life rather than death) may be naturally achievable beyond the walls of a cemetery, and that the very life of nations can be nurtured through international organization and cooperation.

He predicts that it will be the nations of Europe, the “Good European,” who will have to suffer the most in the upcoming century to learn the hard lessons of perpetual peace that can never be achieved through the arrogance of imperialism or nationalism, but only by the humility of cooperation among all nations in the service of life.

And he teaches that we not ask of a man or woman what it is they believe. That is superfluous to the transfigured one. Ask instead what it is that they love. For there you will find that which may transform their natural power into something higher, something blessed, able to transcend those two impulses of the Olympians

in the service of this earthly life; here and now.

That one who transcends, the Professor has named “The Overman.” When he had achieved the superhuman strength of equanimity—and could cast a wry smile in the direction of both temples—Apollonian and Dionysian— and make his freedom his own morality.

And so in the final analysis he champions not the darkness of The Will To Power, as has often been ascribed to him, but its synthesis with the Will To Justice— a wedding celebration long promised; a coming home long sought; since the dawn of Western philosophy in the light of the Mediterranean sun.

And where did he find this synthesis of soul? Not in gray Germany. Not in austere Switzerland. No, it could only have been in the noontime of a bright Italian day; in that Moment between past and future, when, even in the face of illness and the decay of civilization around him, he could sing, and dance, take a walk, and eat well.

La Cerca - Chapter 13

“More water, Herr Doctor Schmidt?”

It was Fredericka Illyich that was most solicitous of Schmidt as he worked daily at the Museum. Nearly 20 years his senior, she had become more like a mother to him than Tatiana Karasova, who was closer in age to him, but treated him with the detached respect of a distant aunt.

“Thank you, Fredericka.” “Yes, that would be pleasant.”

“Fredericka, did you ever really look at this ink well? Nineteenth Century. May have been made with Nietzsche in mind. Do you see, this one female figure, the one on the right, with books at her feet? She has a staff with an eagle and a snake. Did you know, Fredericka, that in *Thus Spoke Zarathustra*, Nietzsche used the archetypes of a proud eagle and a wise snake to announce his eternal recurrence?”

“Ah, Herr Doctor, always with the

Nietzsche! The eternal recurrence of name! Don’t you ever get tired of pouring over that manuscript?”

“But it is my work, Fredericka, why I have been sent here. And one day, it will be published, along with my interpretation of it.”

“I will be long gone by then!,” mused Fredericka.

“We can only hope,” replied Tatiana, a dismissive attempt at ill humor.

Tatiana thought Fredericka all too maternal in her relationship with Schmidt. Tatiana was old school. With her high boots and still dark hair pulled back tightly into a severe knot, she considered herself Schmidt’s guardian only; as if he were a potentially unruly child who could at any time disturb the order of her life. Fredericka, on the other hand, had the soft features and temperament of a proud grandmother, for whom solicitousness for her ward was no chore, but second nature.

Since assigned to the Museum in 1984, Schmidt had become obsessed with a number of the museum’s artifacts, always relating

them in some way to his work on the manuscript, as if they were props in the consummation of his goal. He would often hold in his hands one or the other of the two copies of the bible in the museum collection—one an 8 kilo silver Eighteenth Century bible, bound in intricately worked silver, with figures of the four evangelists and Christ in the middle ; or the other, displaying the same figures on its binding, but wrought in intricate gold leaf, and interspaced with fine painting—and try to decide which binding would be more appropriate for the manuscript which always sat open on his desk, as if it would be up to him someday to make all the arrangements for publication of the manuscript to which his life had become devoted. But mostly, his greatest consolation as the fiftieth year of his life approached in 1989 was the study of the manuscript itself. Every word, every page was studied, poured over, annotated, with his own interpretation of the words filling journal after journal as he proceeded slowly, reading backward and forward, like the ruminations of a cow, as Nietzsche would have said.

But other than this solitary consolation, and apart from what companionship he was able to enjoy from the tender Fredericka or the severe Tatiana, his was a lonely existence, as he would take up his pen daily, and write his thoughts on the passages he had just read, which he knew would be for some others, someday, outside these walls, to read.

It is as if “The Transfiguration” has brought Professor Nietzsche full-circle from The Birth of Tragedy. Having labored at the end of his career to explain the Dionysian impulse of nature—its Will To Power—(that aspect of all nature that wants to grow, and expand, and be all powerful), the Transfiguration takes up the challenge of synthesizing that force with the other impulse of Nature—the impulse of nature towards light and reason, towards structure, fairness, and perhaps most of all, Justice.

The State of Justice

The Story of Irsland, a Children's Fable

Once upon a time there lived a bored King, the King of Irsland, who for want of anything better to do drew a fantastic maze of lines, circles, squares, numbers and letters all over the floor of the palace. There was no design to the plan, but the King thought it would be fun to tell his subjects that this riddle did indeed have an answer, and that anyone who discovered it was destined to become King of all the land. His idea was to convince his subjects that only those with the wisdom of the King could possibly comprehend the puzzle.

Announcing his plans for a continuing competition, the King summoned the best minds of the realm to proctor the event, and if it would please them, to take part themselves. (The King knew that best minds almost always think themselves also wise). Of course, the King was shrewd as well as bored, and he knew that as long as the competitors had their heads down looking intently at the floor, no one could challenge his power. More profitably, however, was the King's idea to steal holoops (measures of wealth in Irsland) from the competitor's pockets while they were bent over and busily surveying the maze.

Meanwhile, each day before the populace would be

admitted to the palace floor the King would arise at dawn and add a few more stars or numbers, or erase others, so that the perplexed would-be Kings with figures adduced during one day would arrive bright eyed the next day only to throw their hands in despair and begin again their study.


One day, as the King was going about his usual business of picking the pockets of his subjects, a young child happened past the palace guards and wandered into the room which, at that time of the day was swarming with bespeckled adults on all-fours with ledgers, slides, pencils, and many colored notebooks. While he was somewhat amused at the way all these adults crawled around the floor, he was more fascinated by the learned scholars who spoke in a curious language to the new groups of people constantly arriving at the palace hall. Soon, however, the child was bored by the whole scene and looked up to see the startled and red-faced King hastily slip a holoop into his pocket. The child, not understanding dishonesty, smiled at the monarch and politely asked him why the people were so busy studying the multicolored floor. The King, further embarrassed by the fact that no one had ever directly asked him that question before, mumbled that "it has been said that he who figures out the maze will be King of all the land". With this the child laughed. He was much too young to be interested in being

a King, and besides, he was rather hard put to understand why anyone would want to spend their time gazing at the floor when the sky and the trees on the palace lawn were more amazing sights to ponder.

After the child left, the King called a great conference of the palace staff, and demanded that security be tightened to prevent children from being admitted unto the palace floor. The King reasoned that perhaps the best way this might be done was to set up a special office through which people who wanted to study the floor had to be screened. The staff unhesitatingly agreed that the King had a great idea, assured the King that the office would only increase the mystery of the floor, and immediately devised tests—using portions of the floor as model problems, to measure the aptness of the incoming students. In addition, the King decreed that the brightest students of the floor should be paid fantastic amounts of holoops (which he nevertheless would steal back from them while they studied) to encourage increased dedication to the riddle's solution, and to encourage parents of the realm to teach their children how important it was that the floor be studied.

And so the years passed, and the people of Irsland went from childhood to adolescence and then to the

...for the
sake
of
Irsland

floor. But despite the King's careful precautions, every once in awhile a small child would slip past the guards and run laughing and playing into the palace hall. When this happened, the surprised people would do their best to regain their composure, and would look to each other to assure themselves that no one acknowledged the presence of the child, and to register their disapproval and annoyance that this young ignorant had not the good sense to get down to work. But since the king was getting older and the people knew his heart could not much longer stand the strain of such disruptions, such occurrences always disturbed the people of the floor more than they let on, and always made them return to their work with increased vigor. After all, the riddle needed to be solved. Before the King died. For the sake of Irsland. 

McPhail

con'd from p. 1

In 2003, Shari and her family moved to Wheeling, West Virginia and she later divorced.

In Wheeling, Shari continued as a solo practitioner focusing on family law until two years ago.


In 2007, Shari decided to leave the emotionally charged practice of family law and accepted a position at Sinclair PLLC, a law firm that concentrates on the defense of occupational and environmental litigation. Sinclair PLLC has represented many of North America's Class I Railroads and

currently defends occupational injury and illness claims on behalf of several Fortune 500 corporations in the United States, Mexico, and Canada. Shari concentrates her practice in toxic torts litigation, occupational and environmental injury and illness claims, and transportation law. She also focuses on the development of systematic document retention, retrieval, and litigation management policies, particularly strategy for the management of electronically stored information.

While Shari enjoys

practicing law, she loves being a parent. Her son, Scott, is 19 years old and attends college in Powell, Wyoming. Her son, Robert, is 17 years old and her two younger sons, Jacob and Aiden, are 8 and 6 years old. The family attends Temple Shalom in Wheeling.

When not attending child related activities, Shari enjoys naps on the porch swing, reading, walks with the family dog, and home repair (a constant necessity when a family includes four boys). This summer, Shari and her two older sons installed

160' of privacy fence around their back yard. The project resulted in the exchange of a few expletives (communication) and a lot of sore muscles (exercise). The evening the fence was completed, the family joked over dinner about the project and discovered that they not only built a fence but also created a great family memory. The next McPhail family project is a tree fort with construction slated to begin in a couple weeks. 



Remember...

as a dues-paying Blackstone Club member, you may bring a different non-member lawyer, educator or friend to any meeting as your guest, to introduce him or her to the club.

The Commentaries

is the official newsletter of the Blackstone Club, and is published by the Wheeling Academy of Law and Science.

The Blackstone Club is not an official bar function, and has no ties to any city, state, federal, professional or political entity or organization; it is solely a project of the Wheeling Academy of Law and Science, Inc., a private corporation.

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Upcoming Blackstone Club Meetings & CLEs

BLACKSTONE CLUB Tonight: “An Irish-Italian dinner
by *O’Casaide of Donegal and Sora*”



Upcoming - **October 23, 2009** **December 10, 2009** (WALS Christmas Party)

Continuing Legal Education Seminars

October Lunch Series - 60 min. TBA

Friday, October 30, 2009 - Up to 3.6 credits available

ALL required criteria to get a DISCOUNT on ALPS insurance

by Mark Bassingthwaite, Esq., Rick Manager, ALPS RRG

Friday, November 20, 2009 - Up to 3.0 credits available

3rd Forensic Science Forum

by Cyril H. Wecht, M.D., J.D.

Friday, December 11, 2009 - Up to 3.6 credits available

Morning with the Judges XIII - *presenters TBA*



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