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**Of Counsel**

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## Lawyers Realty LLC Continues to Grow with the Appointment of Mary E. Sill as Sales Manager

Mary E. Sill, ABR, GRI has joined Lawyers Realty LLC as Sales Manager.

Sill will supervise the sales and recruiting activities of the newly opened Lemoyne office of Lawyers Realty LLC as well as directly serving the selling and buying needs of consumers. "After assisting thousands of Harrisburg area home buyers and sellers for more than eighteen years, I am excited to join a team that is dedicated to bringing more value through a better approach to the real estate transaction," said Mary.

"Our process at Lawyers Realty LLC involves providing a higher level of service that includes protection of individual interests, preservation of our clients' equity and choices with regard to how a consumer participates in the process. We feel that Mary's commitment to her clients exemplifies this philosophy and we are very proud to have her as a part of our team," commented Richard Stewart, President of Lawyers Realty LLC.

Mary brings a wealth of knowledge to the Lemoyne office as she has had extensive real estate training including the Graduate of the Realtors



Institute (GRI) and the Accredited Buyers Representative (ABR) designations. She is a very active member of the Greater Harrisburg Association of Realtors as well as the Pennsylvania Association and the

National Association of Realtors. She also brings experience with new home community marketing and has received numerous awards and recognitions from past affiliations and the Greater Harrisburg Realtors Association.

As a life-long resident of the Harrisburg area, Sill is also active with the Humane Society of the Harrisburg Area. Prior to starting a successful career as a REALTOR® with Jack Gaughen Realtor ERA in 1988, Mary served in numerous supervisory and management positions for the Pennsylvania Department of Transportation.

### About Lawyers Realty LLC

Lawyers Realty LLC is one of the newest real estate brokers in Central PA. It was founded in 2006 by the shareholders of Johnson, Duffie, Stewart & Weidner, P.C. so that area homeowners can sell and buy real estate for less than the cost demanded by conventional brokers, with the added protection afforded by experienced real estate attorneys at no additional cost. Lawyers Realty LLC offers a full array of home ownership services including selling, buying, title, relocation, home warranties, appraisal and new home services. More information about Lawyers Realty LLC, its services and affiliations may be obtained by visiting the company's Web site at [www.LawyersRealtyPA.com](http://www.LawyersRealtyPA.com) or by calling 717-364-3000.

## Restaurant Has No Duty to Provide Medical Rescue

A Pennsylvania man recently sued a restaurant after he choked on a piece of chicken and was not rescued or treated by any of the restaurant employees. The patron was able to walk and speak but had difficulty breathing. The restaurant's employees first tried to have the patron drink water and then summoned an ambulance.

The patron had to undergo emergency surgery to treat a tear in his esophagus. He later sued the restaurant and claimed that, since restaurant owners should expect that patrons may choke on food, owners should train their staff in performing the Heimlich maneuver and in the administration of general emergency treatment for people who are choking.

The Pennsylvania court dismissed the case, finding that restaurants cannot be expected to keep their staffs trained in emergency medical treatment. The court ruled that a restaurant whose employees are on notice that a customer is in distress and in need of emergency medical attention has a legal duty to come to the assistance of that customer. However, a restaurant does not have a duty to provide medical training to its food service personnel or medical rescue services to its customers who become ill or injured. A restaurant meets its legal duty to a customer in distress when it summons medical assistance within a reasonable time.

## Child Support Update

The Pennsylvania Child Support Guidelines were revised as part of the state's overall practice of periodically revising the Guidelines to keep up with economic changes. Pennsylvania's support calculations are based on the incomes or earning capacities of both parties, and little or no regard is paid to the individual expenses of the parties, except in matters where the parties' joint net incomes exceed \$20,000 per month.

The law presumes that parents whose joint incomes are at a certain level should pay the same amount of support as other parents with the same incomes, whether or not their particular personal expenses are vastly different. This approach focuses on fairness to the child or spouse entitled to support rather than on the other economic obligations of the payer.

The 2006 revisions to the Guidelines tend to increase support obligations where the parties have one child and their combined monthly net income is under \$6,000 per month. For parties with

higher incomes, the revisions tend to reduce existing orders for one child. For parties with more than one child, the revisions vary.

If you have an existing child support, spousal support, or alimony pendente lite order, you should contact an attorney before requesting modification of your existing order to confirm whether modification will benefit you. Sometimes a parent seeking a change in a support order is unpleasantly surprised to find that his or her request leads to a modification in the opposite direction. It is wise to explore the likely result before you actually file for a change in your order.

A more recent and welcome change to the Support Guidelines was the expansion of the appeal period following a support conference. In August 2006, the time for appeal was expanded from 10 to 20 days, giving parties more time to consult with counsel about the wisdom of appealing a Support Conference Officer's recommended order.

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## Take Me Out to the Ball Game

Spectators at baseball games assume the risk of a variety of injuries – balls and even bats sometimes hit fans and can cause serious injuries. A Philadelphia Phillies fan recently tried to get around the law of assumption of the risk, but he struck out when the Pennsylvania Superior Court threw his case out.

The spectator suffered serious eye and head injuries when he was hit by a ball thrown into the stands by a Phillies center fielder. The center fielder intentionally tossed the ball at the end of an inning, to serve as a souvenir for a lucky fan. Unfortunately, no fan caught the ball, and the injured spectator sued, claiming that, while he assumed the risks associated with the play of the game, he did not assume the risk of being hit by a ball intentionally thrown into the stands.

The court disagreed. Because professional baseball fans routinely arrive early for batting practice in hopes of retrieving an errant baseball as a souvenir, and because fans routinely battle to retrieve balls landing in the stands via home runs or foul balls, the court found that many risks occur at baseball games in connection with souvenir balls. The court also observed that both outfielders and infielders are known to toss caught balls to fans at the end of an inning.

Pennsylvania law provides that even first-time attendees at sporting events are presumed to know the customary risks that arise from sitting in the stands. Those risks are not confined to events that take place during game play, but include just about anything that can happen at a sporting event.

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## Owners Beware of Mechanics Lien Changes

Significant changes to Pennsylvania's Mechanics Lien Law were made as a result of recent legislation approved by the Governor. Mechanics Liens enable unpaid suppliers of labor and/or materials to place a priority lien against the real property on which the work was performed. The amendments extend the time for filing a lien to six months after completion of the work. The lien relates back to the date that construction was first commenced. The Act now allows subcontractors of a subcontractor to file a lien. It also declares that waivers of liens by a contractor or subcontractor are against public policy and void

except in the cases of contracts for residential buildings of less than \$1,000,000. Mechanics Liens will now be subordinate to purchase-money mortgages and open-ended mortgages where the proceeds of the mortgage were used to pay all or part of the completion of construction. The net result is to strengthen the hand of contractors, subcontractors and lenders and to weaken the hand of owners. Owners, lenders, contractors and subcontractors should consult us to see how their interests can best be protected under the new Act.



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Resolution of legal issues depends upon many factors, including variations of facts and interpretations of Pennsylvania law. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.

# Liability for the Careless Driving of Others

Are owners of cars liable when they loan their cars to someone who then drives negligently? Are husbands liable for the careless driving of their wives? Mothers for their sons? What if the negligent driver is drunk or does not have a valid driver's license?

## Duty of Care

While most people feel morally obliged to look out for the safety and welfare of others, the law has for centuries embraced the fundamental premise that the mere knowledge of a dangerous situation, even by one who has the ability to intervene, is not sufficient to create a legal duty to act. Before a person can be held legally liable for another person's injuries, the law looks for a reason why a duty of care may be imposed. Without a legal duty of care, no legal liability for negligence exists.

Husbands, wives, sons and daughters may share their lives and their households, but they do not share liability for each other's negligent driving. Even if a parent or spouse has given another family member permission to use a car, and even if the parent or spouse is the title owner of the car, and even if the car is on a policy of insurance with other family cars in the parent's or spouse's name, the parent or spouse has no automatic liability for the unexpected negligence of the driver. Similarly, loaning a car to a friend does not make you liable for the friend's unexpected negligent driving. Drivers themselves are liable for their careless driving.

Car owners or family members can be held liable if they negligently loan a car to someone when they have a specific reason to know that the other person may drive carelessly. Handing the keys to your intoxicated son or making your car available to your spouse for an evening of illegal drag racing are obvious examples of negligent entrustment. If you carelessly ignore any facts which clearly tell you that a friend or family member is not in the proper physical condition to drive or has specific intentions to drive dangerously, you can be held liable.

In addition, serving alcohol to minors is a crime and is a sure route to exposing yourself to liability to others. Anyone who knowingly serves alcohol to a driver under the age of 21 is liable to persons injured by the minor's negligence while driving under the influence of alcohol.

While parents are not held directly responsible for their child's negligent driving, parents do have some financial responsibility to contribute toward a damages award against their child. If damages

are awarded to the injured claimant in a suit against a minor child, the minor's custodial parent or parents are responsible for paying a maximum of \$1,000 per injured person or \$2,500 per incident. Any damages awarded against a minor over these amounts cannot be collected against the child's parents.

## Passenger Liability

The liability of passengers is limited. Merely being present in a car with a negligent driver is not enough to make a passenger liable to others. Even riding with an intoxicated person does not make a passenger liable to others who may be injured by the dangerous driving of the driver. A passenger is liable to others only if he or she actually assists or encourages the driver to engage in unsafe behavior. Encouraging a driver to speed, or supplying a driver with drugs or alcohol while he or she is driving, can make a passenger liable to other injured persons.



Passengers are held somewhat responsible for ensuring their own safety. When a passenger knows or has reason to know that the driver may be intoxicated or otherwise unfit to drive, the passenger may be unable to recover damages for his or her own injuries. A passenger who rides with an intoxicated driver may suffer a reduction or complete elimination of the right to damages, since riding with an impaired driver may constitute assumption of the risk or contributory negligence. Central to the inquiry is whether the passenger was actually aware of the dangers.

If you loan a car to someone whom you know to be unlicensed or to be unfit or unlikely to drive safely, you can be held criminally liable. The Pennsylvania Motor Vehicle Code prescribes fines and sanctions for such careless conduct. Liability for damages to others in civil lawsuits is part of the criminal sanction – if you violate the Motor Vehicle Code by loaning a car to someone who is unlicensed or unfit, you are responsible for the injuries caused to others.

## Counselor Rules on Course

Hank Johnson, who is Of Counsel to the firm, can often be found on the golf course where his prowess is legendary. Hank added to that legend by shooting less than his age for a round of golf. The 75 year-old wonder shot a 74 at the West Shore Country

Club, and this was after having two hips replaced last year! Hank and his wife, Jean, will be starting out soon on their annual cross country odyssey by car. Many of our younger associates have trouble keeping up with Hank. He keeps going and going.

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## Two Attorneys Join Staff

Elizabeth D. Snover and Kelly L. Bonanno are the newest attorneys to join Johnson Duffie. Elizabeth is a Phi Beta Kappa graduate of St. Joseph's University. She received her Juris Doctor from Penn State's Dickinson School of Law where she was elected to the Woolsack Honor Society. She is a member of the Cumberland County, Dauphin County and Pennsylvania Bar Association. She concentrates her practice in real estate and civil litigation. A native of Pittsburgh, Liz resides in Lower Allen Township with her husband, Mark.



*Snover*



*Bonanno*

Kelly is a Magna Cum Laude graduate of Clarion University of Pennsylvania. She received her Juris Doctor from Weidner University School of Law where she was a member of the Law Review. She is a member of the Cumberland County, Dauphin County and Pennsylvania Bar Association where she serves on the Commission on Women in the Profession. She volunteers with East Shore YMCA's Youth and Government Program and the Pennsylvania Bar Association's Law Day Committee. Kelly resides in Harrisburg with her husband, Matt.

## Firm Renovates for Growth

Johnson Duffie recently completed a major renovation of the first floor of 301 Market Street to accommodate the growth of the law firm. The space formerly occupied by the West Shore Regional Police was demolished and totally rebuilt to accommodate the law firm's growth. The new space has room for five attorneys and additional paralegals and support staff. Space at 307 Market Street was also remodeled to house the offices of Lawyers Realty LLC, a full service real estate brokerage firm founded by the members of the law firm to provide consumers with the added protection of attorney representation at no additional cost. Miller & Norford was the general contractor for the project.