



Forensic Genealogy News

Council for the Advancement of Forensic Genealogy

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Forensic Genealogy Institute, April 11-13, 2013, Dallas, Texas

Council for the Advancement of Forensic Genealogy announces its second Forensic Genealogy Institute. The first Institute held in October generated such a large wait-list that CAFG has scheduled an encore for April 11-13, 2013 at the Wyndham Love Field in Dallas, Texas. Public registration is scheduled to begin 21 January 2013 through the 123SignUp link on the CAFG Forensic Genealogy Institute website <http://www.forensicgenealogists.com/forensic-genealogy-institute.html>

More detailed information about the Institute to follow.

Welcome Mentor Program Enrollees

Amber Goodpaster Tauscher

Amber has sixteen years of experience conducting genealogical research in repositories across the United States, one year professionally. She is a 2011 graduate of Boston University's Genealogical Research Certificate Program and completed the Forensic Genealogy Institute in 2012. She continually builds upon her personal knowledge of genealogical records through volunteering, training, and conferences, both at a local and national level. She is a current participant in the ProGen Study Group and volunteers for Unclaimed Persons in her spare time.

Amber is a member of the National Genealogical Society and the Association of Professional Genealogists; she serves as Vice President and Webmaster of the Great Plains Chapter of APG. She also belongs to historical and genealogical societies in Nebraska, Missouri, Kansas, Indiana, and New England. Her company, Antique Ancestors (www.antiqueancestors.com), is based in Lincoln, Nebraska, and specializes in genealogical research in the Midwest.

Frank Southcott

Frank always had a keen interest in family. He has been piecing together his family and others for the past twenty-three years in England, Ireland, Canada and the United States. His thirty-seven year career as a military aviator and commercial pilot has permitted him to research in many repositories and archives in those countries, giving a broad perspective to his genealogical experience. In 2008, Frank turned professional genealogist and focuses his research in Chester County, Pennsylvania, one of William Penn's original counties.

He holds a B.S. in Business from the University of Maryland and an MBA from Southern Illinois University, Edwardsville. He holds a Certificate in Genealogical Research from Boston University and has "started the clock" in the application process to the Board for Certification of Genealogists. Frank has attended numerous genealogical conferences and educational opportunities including NGS, the British Institute, Boston University's "Writing Family History Narrative" course, as well as the Forensic Genealogy Institute. He resides in Chester County, Pennsylvania.

Bethany Waterbury

Bethany has been actively researching her children's family lines for the past eight years, which has allowed her to explore records throughout the US, Canada, England, Germany and Poland. Current areas of specialization include upper-Midwestern states such as Michigan, Ohio, Illinois, Indiana, Wisconsin, and Ontario, Canada. The Library of Michigan, with one of the largest genealogical collections east of the Mississippi, is located nearby her, as is the Archives of Michigan with its vast collection of official state documents. She accepted work from her first clients in 2009. Since then she has assisted many in their search to learn more about their ancestors. Her website for family history business is Ancestor Hound Research, <http://ancestorhound.com/> .

Like many professional genealogists, her career path has been varied. She is a licensed veterinarian and has worked in both small animal clinics and humane societies. She has been a college instructor in anatomy and physiology for biomedical science and has a degree in Epidemiology and Public Health. Her varied background has instilled many of the characteristics of a good genealogical researcher - complex problem solving skills, creativity and curiosity, and the drive and determination to find answers.

Bethany is a member of the Association of Professional Genealogists, the National Genealogical Society and the Mid-Michigan Genealogical Society. She is also a graduate of the Summer 2012 Boston University Professional Genealogy Certificate Program, and a current member of the online ProGen group. She completed the Forensic Genealogy Institute in October, 2012, and looks forward to additional training opportunities at national institutes.

Juli Whitaker

Like many genealogists, Juli developed a love for genealogy while researching her family. Over the years she has visited many repositories and cemeteries across the state of Missouri. From Missouri, she has traced her family back to France, Germany, and Ireland. Juli is a frequent visitor to the Midwest Genealogy Center and has helped many people research their families.

Juli has completed the National Genealogical Society Home Study Course, the ProGen Study Group (8), IGHR's Advanced Methodology Course, the Forensic Genealogy Institute, and is currently working towards her Certificate in Genealogical Studies-German Certificate from the National Institute of Genealogical Studies. She has a B.S. in Accounting from the University of Missouri-Kansas City and an MBA from the Keller Graduate School of Management.

Juli is the owner of Genealogy Safari in Kansas City, Missouri where she focuses her research on the Midwest. She also volunteers for the Unclaimed Persons group. She is a member of the National Genealogical Society, Association of Professional Genealogists and the Missouri State Genealogical Society, as well as other local societies.

Career advancement

CAFG is proud to announce that **Melanie Holtz**, CG^{(sm)*} and **Michael Hait**, CG have advanced from the mentor program level to the Junior Member level.

*Certified Genealogist (CG) is a service mark (sm) of the Board for Certification of Genealogists®, conferred to associates who consistently meet ethical and competency standards in accord with peer-reviewed evaluations every five years; the board name is registered in the US Patent & Trademark Office.

Board News

The CAFG Board of Directors has elected officers for the 2013 term: Leslie Lawson, President; Michael Ramage, Vice President; Dee Dee King, Secretary-Treasurer; Catherine Desmarais, Mentor Program Representative. Kelvin Meyers remains registered agent. Mentor representative The Mentor Program Representative was made a board position.

Forensic Genealogy Institute

By Juli Whitaker

The Forensic Genealogy Institute was held in Dallas, Texas, October 25-27, 2012. Each day started with a practicum discussion and work session for the participants. The practicum allowed participants to gain hands-on experience finding living heirs. Attendees learned valuable tips about where to look for and find people.

Day one was filled with valuable sessions. Participants learned the most common ways forensic genealogy is used, from guardianships to cold case files. The group then moved on to fees and contracts where they saw sample contracts and discussed the legal issues surrounding each section. The speakers related experiences of why each section of the client contract is significant to avoid litigation. Work products and client documents were the next topic, where participants reviewed client agreements, scope of work, reports, charts and affidavits. For anyone wanting to be a professional forensic genealogist, this review was invaluable. Day one was wrapped up with discussing ways to locate the living through public records.

Day two began with a fascinating lecture on genetic genealogy, including chromosomes, and ended with types of testing and their results. DNA testing is tied in tightly with forensic genealogy. The forensic genealogists role in law, including a mock cross examination highlighted the next subject. The legal implications of a genealogist's work are very complicated and the participants walked away with an arsenal of information to prepare them for potential legal issues. The day ended with a discussion on technology for the forensic genealogist, including time and expense tracking apps.

Day three ended the institute with discussions on how to set up and market a forensic genealogy business. The speakers were very forthcoming about what worked for them, what didn't, and why.

The institute was very informative, detail oriented and enlightening for the participants. The speakers covered sensitive issues such as adoptions, legal issues involving estates and contracts, different skills needed for handling lawyers and heirs, to budding technology useful for genealogists. The speakers were more than willing to share their experiences which clearly showed their commitment to furthering the emerging field of forensic genealogy.

Thirty-three Complete First Forensic Genealogy Institute

The following received certificates of completion from the Forensic Genealogy Institute: Dana Brantley, Michael Brophy, Cinamon Collins, Karen Daniel, Catherine Desmarais, Dee Dee King, Phyllis Garratt, Linda Woodward Geiger, John Greagan, Liesa Healy-Miller, Melanie Holtz, Melissa Johnson, Leslie Brinkley Lawson, Linda Lorda, Kelvin Meyers, Mary Penner, Elissa Powell, Michael Ramage, Malissa Ruffner, Tina Sansone. Also, Pamela Sayre, Bryan Scott, John Sellers, Wanda Smith, Frank Southcott, Debra Spindle, Barbara Stock, Amber Tauscher, Cynthia Turk, Bethany Waterbury, Debbie Parker Wayne, Juli Whitaker, and Vicki Wright.

CAFG Initiates Unclaimed Kin Project

Council for the Advancement of Forensic Genealogy (CAFG) announces the start of Unclaimed Kin, their first Volunteer Initiative Project. Members will be researching the next of kin for persons whose remains are unclaimed at coroner's offices. Each member will manage their own case from beginning to end, with the support of their peers and a team leader. After their report is submitted and reviewed by the advanced members, the contact information regarding the decedent's relatives will be transferred to the coroner's office. This will provide a valuable community service to the coroners' offices and, at the same time, build forensic genealogy experience for the researcher. While members are gaining hours of experience, they are also networking with their colleagues and mentors. Currently there are ten active volunteers, supported by team leaders Cathi Desmarais, CG, Melanie Holtz, CG, and Janice Sellers. Cathi Desmarais also serves as the project coordinator.

feature article

[*Editor's note:* The following article is of importance to genealogists who conduct heir searches, particularly on a contingency fee basis. This case may cause future repercussions in Pennsylvania as well as other states. The case may have particular importance to those genealogists who work cold cases and recruit attorneys to handle the heirship work for the putative heirs, with both the genealogist and the attorney working on a contingency fee basis.]

Heir-Hunting Firm's Attorney Receives Public Reprimand

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On June 8, 2012, the Office of Disciplinary Counsel ("ODC") of the Disciplinary Board of the Supreme Court of Pennsylvania, filed a 72-page Petition for Discipline against state Senator Jeffery E. Piccola, Esquire, alleging numerous ethical violations relating to his representation of an heir-hunting firm and the estate heirs that the heir-hunting firm took on as one-third contingency fee clients. *Pa. Office of Disciplinary Counsel v. Jeffrey Piccola, Esquire*, 85 DB 2012. Mr. Piccola agreed to a public reprimand to settle the attorney disciplinary action against him. As stated in the Public Reprimand:

Mr. Piccola, over the past 20 to 25 years, you represented Kemp & Associates, a Utah company engaged in searching courthouse estate filings throughout the Country for decedents who die intestate and contacting potential beneficiaries of particular estates. The potential heir assigns Kemp one-third of whatever assets the particular beneficiary will receive from the estate. Your fee was a contingent legal fee of five percent of any amount Kemp recovered. It is in the realm of this representation that your misconduct arose.

As sworn to by one of Kemp's employees, Kemp engaged Mr. Piccola "... to provide legal services on behalf of Kemp & Associates and the heirs we identified." Similarly, in a legal brief filed on behalf of Kemp by Mr. Piccola, he asserted, "Pursuant to paragraph 2 of the Contract of Assignments, Kemp retained the undersigned [Mr. Piccola] to perform the appropriate legal work for the heirs and for Kemp."

In a March 24, 2008 letter, Mr. Piccola's letter to an heir stated one of its purposes was "... to give you some guidance as the attorney representing your interests in this matter." Mr. Piccola typically sent a letter to the Register of Wills (with a copy to estate counsel), representing that: "Our clients are ... [names of purported heirs] ..." These letters did not inform the heirs or Register of Wills of Mr. Piccola's long-standing attorney-client relationship with Kemp.

In one of the cases in which some of the heirs disputed the validity of their Assignments with Kemp, Mr. Piccola stated in an April 24, 2008, letter to the estate's attorney, "... it continues to be

my position that I am representing their [the heirs] interests in accordance with those Assignments and Kemp and Associates intends to hold the beneficiaries to the Assignments ...” One of the reasons that the Kemp heirs were contesting the Kemp Assignments was due to the claim that the Assignments were champertous. See, Michael S. Ramage, “Fees and Forensic Genealogy,” *Forensic Genealogy News* 1 (December 2011), 2, for a definition of champerty.

Mr. Piccola’s 16 November 2012 Public Reprimand stated, in part:

You [Mr. Piccola] were retained to represent Kemp and the estate claimants in connection with the Estates of Elinor Appel, Sharon M. Johnson, and Mildred Walter Leader. You failed to advise the claimants when you first undertook representation of them that you considered Kemp to be your primary client; that you would represent the claimants and Kemp as long as their interests were in accord, and that in the event adversity developed between Kemp and the claimants, you would withdraw your representations of both Kemp and the claimants.

As your representation of the above claimants and Kemp continued, there developed a conflict with some of the claimants, as it was communicated to you by other attorneys hired by some of the claimants that these claimants were contesting the assignment to Kemp. However, you continued to represent Kemp and all of the claimants and failed to withdraw your representation.

You represented Kemp in actions against former clients in the matter of Kemp & Associates, Inc., v. Anna Mary Deardolf [sic], Thomas G. Denlinger, Ella Brown Friedel, Emma Jean Heidig, Helen M. Heisler and Velva Lee Masur, Court of Common Pleas of Lancaster County, Civil Action No. 03298 and Kemp and Associates, Inc. v. Richard M. Smelser, Carol A. McDannell and Terrence L. Thomas, as Power of Attorney for Anna Faye Thomas, Court of Common Pleas, Adams County, Civil Action No. 2008-SU-0001487. You had previously represented the defendants in the same or substantially related matters, and were now representing Kemp, whose interests were materially adverse against these former clients.

Your actions have violated the following Rules of Professional Conduct:

1. RPC 1.4(a) - ... informed consent ...
2. RPC 1.7(a) - ... a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. ...
3. RPC 1.9(a) – A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or substantially related matter in which that person’s interests are materially adverse to the interests of the former client unless the former client gives informed consent; ...

This is not the first United States case in which an attorney has been charged with conflict of interest violations due to representing both an heir-hunting firm and that firm’s heir clients. See, for example, *Sullivan v. Committee of Admissions*, 395 F.2d 954 (D.C. Ct. App. 1968) (private reprimand of an attorney for representing heir search firm and heirs where champerty, solicitation, and conflict of interest existed).

In a New Jersey case, the court stated,

The court is concerned, however, with defense counsel's apparent dual role in this matter. While describing itself as counsel “for the heirs” it seems that defense counsel is also representing the interests of the genealogical firm in connection with the dispute raised by the administratrix herein. The interests of the genealogical firm and the heirs, however, are not aligned on the issue raised. In order to insure that those heirs are apprised of this matter, defense counsel is directed to forward a copy of this Opinion to all 35 heirs within 10 days.

Matter of the Estate of Campbell, 327 N.J. Super. 96, 742 A.2d 639, 642 (Superior Court of New Jersey, Chancery Division, Probate Part, Monmouth County 1999). Note that unlike Pennsylvania and the District of Columbia, New Jersey does not apply the common law doctrine of champerty and thus only the potential conflict of interest was involved in *Estate of Campbell*. The heir-hunting firm involved in the *Estate of Campbell* was Blake and Blake Genealogical, Inc.

Lessons to be learned for forensic genealogists: (1) The Lancaster County, Pennsylvania, collection lawsuit against Kemp's heir clients for their 1/3 share that the Mr. Piccola pursued resulted in Kemp & Associates not having any legal counsel to represent them because the lawyers were held by the judge to have potential conflicts of interest. This resulted in Kemp's collection lawsuit being dismissed. The practical end result was that no one involved in this case on a contingent fee basis was entitled to collect their fees from the heirs. If a forensic genealogist had signed onto this case for only a contingent fee they would have not received any payment. If, on the other hand, the forensic genealogist had either an hourly plus costs fee agreement, or a contingent fee agreement with a proviso that in the event the contingency agreement was not enforceable that the genealogist would be paid on an agreed hourly rate, then the genealogist would have been paid. (2) Forensic genealogists must avoid fee-splitting agreements with attorneys because they are ethically prohibited by attorney ethics codes.

To view the Public Reprimand against Mr. Piccola please go to the following URL:

<http://www.pacourts.us/OpPosting/disciplinaryboard/dboardopinions/85DB2012-Piccola-PUR.pdf>.

Noteworthy

Kelvin Meyers and **Melanie Holtz**, CG, were recently elected to the Board of Directors of the Association of Professional Genealogists (APG). CAFG member **Michael Hait**, CG is also an APG board member. As a member of the APG Advocacy Committee, **Meyers** was one of the panel members of the APG Roundtable at FGS *Records Access: the Art of Advocacy*.

Tina Sansone was recently elected as Vice President of the Second Life-APG Chapter. Tina is also a new contributor for the website Generous Genealogists and assists with their social media.

Catherine Desmarais, CG, and **Michael Hait**, CG, both had articles published this summer in the APG *Quarterly*.

Amber Goodpaster Tauscher was elected Vice President and appointed webmaster of the Great Plains Chapter of APG.

Janice Sellers was elected as a board member at large to the California State Genealogical Alliance.

Charlene Pipkin, AG, was elected as a new commissioner to the International Commission for the Accreditation of Professional Genealogists (ICAPGen).

New Editor of Forensic Genealogy News

Beginning with the February 2013 issue, *Forensic Genealogy News* will undergo two changes.

Bethany Waterbury has agreed to assume the editor position, replacing Dee Dee King. King served as editor 2011–2012. Rather than attempting a monthly publication, *Forensic Genealogy News* will be published every other month.