

# Erie County Legal Journal

October 23, 2009

Vol. 92 No. 43

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92 ERIE 239 - 243

Paul v. Home Rule Borough of Edinboro

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# Erie County Legal Journal

*Reporting Decisions of the Courts of Erie County  
The Sixth Judicial District of Pennsylvania*

Managing Editor: Paula J. Gregory  
Associate Editor: Heidi M. Weismiller

**PLEASE NOTE: NOTICES MUST BE RECEIVED AT THE ERIE COUNTY BAR ASSOCIATION OFFICE BY 3:00 P.M. THE FRIDAY PRECEDING THE DATE OF PUBLICATION.**

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# Erie County Bar Association

## Calendar of Events and Seminars

### THURSDAY, OCTOBER 29, 2009

*4th Annual Diversity Summit*  
Pennsylvania Bar Association Groupcast  
Bayfront Convention Center  
8:30 a.m. - 4:45 p.m. (8:00 a.m. reg.)  
\$35 Includes BREAKFAST and LUNCH  
5 hours ethics

### TUESDAY, NOVEMBER 3, 2009

*Fire-at-Will in Pennsylvania*  
PBI Video Seminar  
Bayfront Convention Center  
9:00 a.m. - 12:30 p.m. (8:30 a.m. reg.)  
\$129 (member) \$109 (admitted after 1/1/05)  
\$149 (nonmember)  
3 hours substantive

### THURSDAY, NOVEMBER 5, 2009

*2009 PA Motor Vehicle Law Update*  
ECBA Live Seminar  
Bayfront Convention Center  
1:00 p.m. - 4:25 p.m. (12:30 p.m. reg.)  
\$81 (ECBA member) \$119 (nonmember)  
3 hours substantive

### TUESDAY, NOVEMBER 10, 2009

*Elder Law Update*  
PBI Groupcast Seminar  
Bayfront Convention Center  
9:00 a.m. - 12:15 p.m. (8:30 a.m. reg.)  
\$224 (member) \$204 (admitted after 1/1/05)  
\$244 (nonmember)

*Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:*

*\$199 (member) \$179 (admitted after 1/1/05) \$219 (nonmember)*  
3 hours substantive

### WEDNESDAY, NOVEMBER 11, 2009

*Critical Evidentiary Issues in Capital Cases*  
PBI Groupcast Seminar  
Erie County Bar Association  
12:30 p.m. - 4:45 p.m. (12:00 p.m. reg.)  
LUNCH INCLUDED  
\$224 (member) \$204 (admitted after 1/1/05)  
\$244 (nonmember)

*Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:*

*\$199 (member) \$179 (admitted after 1/1/05) \$219 (nonmember)*  
3 hours substantive / 1 hour ethics (integrated)

### THURSDAY, NOVEMBER 12, 2009

*Estates & Trusts 101*  
ECBA Live Seminar  
Bayfront Convention Center  
12:30 p.m. - 1:30 p.m. (12:00 lunch)  
\$27 (ECBA member) \$39 (nonmember)  
Free (new admittees)  
1 hour substantive

### MONDAY, NOVEMBER 16, 2009

*Bankruptcy 101*  
ECBA Live Seminar  
US Federal Courthouse - Hon. T. Agresti Courtroom  
9:00 a.m. - 10:00 a.m.  
\$27 (ECBA member) \$39 (nonmember)  
Free (new admittees)  
1 hour substantive

### TUESDAY, NOVEMBER 17, 2009

ECBA Live Seminars  
Bayfront Convention Center  
*Family Law 101* (11:00 a.m. - 12:00 p.m.)  
AND  
*Workers' Compensation 101* (12:30 p.m. - 1:30 p.m.)  
Lunch (12:00 - 12:30 p.m.)  
\$39 (ECBA member) \$50 (nonmember)  
Free (new admittees)  
1 hour substantive for each seminar

### TUESDAY, NOVEMBER 17, 2009

*Advanced Issues in Social Security Disability*  
PBI Video Seminar  
Bayfront Convention Center  
9:00 a.m. - 4:00 p.m. (8:30 a.m.)  
\$149 (member) \$129 (admitted after 1/1/05)  
\$169 (nonmember)  
5 hours substantive / 1 hour ethics

### WEDNESDAY, NOVEMBER 18, 2009

*13th Annual Family Law Update*  
PBI Groupcast Seminar  
Bayfront Convention Center  
8:30 a.m. - 1:00 p.m. (8:00 a.m. reg.)  
\$224 (member) \$204 (admitted after 1/1/05)  
\$244 (nonmember)

*Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:*

*\$199 (member) \$179 (admitted after 1/1/05) \$219 (nonmember)*  
4 hours substantive

## 2009 BOARD OF DIRECTORS

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# Erie County Bar Association Live Seminar

presented in cooperation with its Civil Litigation Section

## 2009 PENNSYLVANIA MOTOR VEHICLE LAW UPDATE

Join your fellow ECBA and Civil Litigation colleagues for an informative seminar presented by our authoritative speakers and concluding with a social cocktail hour sponsored by the ECBA's Civil Litigation Section - an enjoyable afternoon offering an opportunity to network with fellow members and earn CLE!

**THURSDAY, NOVEMBER 5, 2009**

Bayfront Convention Center

1:00 - 4:25 p.m. (Registration 12:30 p.m.)

Cocktails - 4:30 - 5:30 p.m.

\$81 (ECBA member) \$119 (nonmember)

This seminar has been approved by the Pennsylvania CLE Board  
for **3 hours substantive law credits**.



Craig Murphey, Esquire  
*MacDonald Illig Jones & Britton LLP*

### ***Uninsured/Underinsured Motorist Coverage Update***



George J. Wharton, P.E.  
*CED Investigative Technologies, Inc, Cleveland, OH*

### ***Motor Vehicle Crash Investigation and Reconstruction***



Craig A. Markham, Esquire  
*Elderkin Martin Kelly & Messina*

### ***Review of Significant 2009 Auto Law Decisions***



Eric J. Purchase, Esquire  
*The Purchase Firm*

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Reservations due to the ECBA office by Friday, October 30, 2009.

#### Cancellation Policy:

Cancellations received on or before the last reservation deadline will be fully refunded. Cancellations received after the deadline or non-attendance will not be refunded. If you register for an event without payment in advance and don't attend, it will be necessary for the ECBA to send you an invoice for the event.

\*ECBA Financial Hardship Policy - any lawyer for whom the cost of an ECBA Continuing Legal Education program is a financial hardship may petition the ECBA Executive Director for a reduced fee. For more information on the policy and how to apply, please contact the ECBA office at 459-3111. All requests will be confidential.



**Statement of the Facts**

Appellants own a single-family home near the lake at 112 Maple Street, Edinboro, Pennsylvania. *Brief in Support of Land Use Appeal*, p. 1. Appellants allege they have rented the home to college students during the school year for the past twenty (20) years and utilized the residence as a summer home during the summer months. *Id.* Appellants aver they had a conforming use until Appellee modified the zoning ordinance in May of 2008 and again in August 2008. *Id.*

Appellee has long had a rental ordinance that required landowners to obtain a license in order to rent their property. *Brief in Opposition of Appeal*, p. 3. Appellants had a rental license for the 2006-07 period. During the 2007-08 rental year, Appellants did not obtain a rental permit and had no renters. *Id.*; *Brief in Support of Appeal*, p. 3. On July 3, 2008, Appellee published its Notice of Intent to Adopt a New Ordinance that modified, restricted and changed the ability of individuals to rent their properties.<sup>1</sup> *Brief in Opposition of Appeal*, p. 3, *Exhibit A*. Appellants approached the Edinboro Zoning Administrator shortly after the posting and requested an application for a 2008-09 Regulated Rental Year License. *Id.* at p. 3. The 2008-09 application was dated July 23, 2008 and was mailed that same day from Appellants' permanent residence in Aliquippa, Pennsylvania with a check for payment. *Id.* A 2007-08 application was mailed July 24, 2008 from the same location.

The Zoning Administrator rejected Appellant's application for a 2007-08 Rental Year License noting that because the application was untimely, it could not be accepted. *Brief in Support*, p. 5. Appellants appealed the decision of the Borough's Zoning Officer to the Zoning Board. After a hearing, the Zoning Board upheld the denial of the requested permit in a decision dated December 23, 2008. *Brief in Opposition of Appeal*, *Exhibit A*. The instant appeal followed.<sup>2</sup>

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<sup>1</sup> Ordinance 563, which was enacted August 11, 2008, amended Ordinances 545 and 561. Ordinance 563 defines a Student House and notes "[n]o single family home, townhouse, duplex, or conversion unit, used as a Student House shall be located on a lot, any portion of which is closer to another lot containing a Student House than a distance determined by multiplying twenty times the minimum width required for a single family dwelling in the district in which the Student House is located." Ordinance 563 also states that no more than one structure on a lot may contain a Student House.

<sup>2</sup> Appellants named The Home Rule Borough of Edinboro as Appellee in the instant case. In response, The Home Rule Borough of Edinboro and the Edinboro Zoning Hearing Board filed a Motion to Quash and or Dismiss alleging that Appellants' suit was untimely as The Home Rule Borough of Edinboro did not render the decision that is being appealed and the incorrect Appellee was named. This Court denied the Motions on February 10, 2009. *Order of Connelly, J., February 10, 2009.*

### Analysis of Law

The standard for the Court of Common Pleas when reviewing a decision of a Zoning Hearing Board, if the Court does not take additional evidence, is limited to determining whether the Board committed a manifest abuse of discretion or an error of law. *Swemley v. Zoning Hearing Board of Windsor Twp.*, 698 A.2d 160 (Pa.CmwltH.Ct. 1997). An abuse of discretion occurs only where the board's findings are not supported by substantial evidence in the record. *Spahn v. Zoning Board of Adjustment*, 922 A.2d 24 (Pa. CmwltH.Ct. 2007). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Rittenhouse Row v. Aspite*, 917 A.2d 880 (Pa.CmwltH.Ct. 2006). Further, in weighing evidence presented before the zoning hearing board, the trial court may not substitute its interpretation for that of the board because determinations about the credibility and the weight to be given to the evidence are to be made by the board. *In re: Cutler Group, Inc.*, 880 A.2d 39 (Pa.CmwltH.Ct. 2005), *appeal denied*, 897 A.2d 461 (Pa. 2006). The Superior Court has held that in zoning cases, all courts need to determine is whether there is some basis for the borough's action or, in other words, whether the action was arbitrary or capricious. *Boyle Appeal*, 116 A.2d 860 (Pa.Super. 1955).

Here, the decision of the Zoning Board notes that the standard rental permit period had run from August 15 through August 14 since the year 2000. *Brief in Opposition of Appeal, Exhibit A*. The Zoning Board also held that the "Pending Ordinance Doctrine" provides that the municipality may deny an application for zoning relief, if, at the time of the application, a zoning ordinance is pending which will prohibit use of land sought by application. *Zoning Hearing Board, Conclusions of Law, ¶ 1, relying upon, Baron Oil Co. v. Kimple*, 284 A.2d 744 (Pa. 1971). The Zoning Board held that because the amended ordinance was pending at the time Appellants filed their rental application, they no longer had a conforming use. *Id. at ¶¶ 5-8*. The Zoning Board also relied on the 1968 Pennsylvania Supreme Court case of *Penn Township v. Yecko Bros.*, which held that a party must act in good faith and cannot race to beat a new zoning ordinance. *Penn Township v. Yecko Bros.*, 217 A.2d 171 (Pa. 1968).

The Pending Ordinance Rule holds that "a municipality may properly refuse a building permit for a land use repugnant to a pending and later enacted zoning ordinance even though application for the permit is made when the intended use conforms to existing regulations." *A.J. Aberman, Inc. v. New Kensington*, 105 A.2d 586 (Pa. 1954). In its decision, the Board noted that until the time of the first publication of the new zoning ordinance on July 3, 2008, Appellants had a conforming use. *Brief in Opposition of Appeal, Exhibit A*. However, the Board denied Appellants' applications in 2008 as they were for rental permits for a non-conforming

use, which was prohibited by the pending ordinance. *Id.*

Appellee contends that Appellants' late application for the 2007-08 rental period demonstrates bad faith on their part. Appellant Nancy Paul testified at the hearing that she became aware of the new ordinance during a meeting with the Zoning Administrator on or about July 18, 2008. *Hearing Transcript*, pp. 35, 52. She also testified that she knew the only way to defeat the pending ordinance was to file an application for a 2007-08 rental license. *Id.* at pp. 53-54. The Court finds that the hearing testimony indicates Appellants did indeed apply for a 2007-2008 license less than one month before the close of the rental period in an apparent attempt to beat the zoning ordinance.

Appellants assert that the Zoning Hearing Board of Edinboro rendered a decision, ostensibly supported with very limited facts from the record. *Brief in Support of Appeal*, p. 8. Appellants contend that their use of the property as a student residence for the past several years was never abandoned. *Id.* at p. 9. Appellants also argue that the Zoning Hearing Board should have utilized the *Haller* Doctrine rather than the Pending Ordinance Rule. In the *Haller* case, the Pennsylvania Supreme Court held that the use in question need not be in actual operation at the time of the ordinance's enactment in order to retain its nonconforming status. *Haller Baking Co.'s Appeal*, 145 A. 77, 79 (Pa. 1928). *See also, Latrobe Speedway v. Zoning Hearing Board of Unity Township*, 720 A.2d 127 (Pa. 1998).

Pennsylvania courts have long held that a use entitled to recognition as nonconforming does not lose that protection unless the use is abandoned. However, the Court notes that Appellants' use of the land was never nonconforming and instead conformed to the zoning ordinances then in effect. Appellants' intended use of the property only became nonconforming in 2008 after the pending ordinance was published and Appellants sought to obtain a rental license. Appellee contends that Appellants' arguments regarding abandonment are not applicable to the case at bar because a different standard is applied in instances where there is an application for a permit when there is a pending ordinance which would affect the subject property. *Brief in Opposition of Appeal*, p. 8.

According to *Ryan's Pennsylvania Zoning Law and Practice*, a nonconforming use is any activity which came into existence prior to the zoning restriction involved and violates that restriction or a use that came into existence under a permissive zoning ordinance and now finds itself in violation of the restrictive amendment. *Pennsylvania Zoning Law and Practice*, Ryan, § 7.1.1. The owner of a nonconforming use bases his case not on the rules of variance but on the simple proposition that his activity predates the zoning restriction and is exempted for that reason. *Id.* *See also, Hanna v. Board of Adjustment*, 183 A.2d 539, 543 (Pa. 1962).



Appellants argue that their use of the property as a student residence for the past several years was never abandoned. *Brief in Support of Appeal*, p. 9. However, the Court notes that Appellants' use of the land was never nonconforming and instead conformed to the zoning ordinances then in effect. The Court agrees with Appellee's contention that Appellants' arguments regarding abandonment are not applicable to the case at bar because a different standard is applied in instances where there is an application for a permit when there is a pending ordinance which would affect the subject property. *Brief in Opposition of Appeal*, p. 8.

The right to create a nonconforming use in the face of a pending ordinance is not constitutionally protected. The cases are clear that a municipality may properly refuse a building permit for a land use repugnant to a pending and later lawfully enacted zoning ordinance even though the application for the permit is made when the intended use conforms to existing regulations. *Honey Brook Township v. Alenovitz*, 243 A.2d 330 (Pa. 1968).

Appellants' final argument notes their rental application cannot be considered untimely because Appellee issued rental permits to other individuals as late as April, 2008.<sup>3</sup> The Court notes that rental applications for the 2008-09 rental year were mailed out in June of 2008, more than a month before Appellants filed an application for the 2007-08 rental year. Moreover, at the time of Appellants' application less than one month remained of the 2007-08 rental year. Therefore, the Court finds that it was within the Zoning Board's discretion to find their application untimely.

The Court is constrained to uphold the decision of the Zoning Board as long as there is some basis for the Borough's action. Here, the Zoning Board utilized the Pending Ordinance Rule to deny Appellant's application. Therefore, there indeed appears to be some basis for the Borough's action and Appellant's Land Use Appeal is hereby dismissed.

### ORDER

**AND NOW, TO-WIT**, this 9th day of July, 2009, it is hereby **ORDERED**, that Appellant's Land Use Appeal is **DENIED** and the decision of the Home Rule Borough of Edinboro and the Edinboro Zoning Hearing Board is upheld.

**BY THE COURT:**

/s/ **Shad Connelly, Judge**

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<sup>3</sup> One renewal permit was issued on July 24, 2008 by the Borough of Edinboro. However, hearing testimony indicates that the application for the permit had been submitted prior to June of 2008 and was delayed because of a question with the application. This application therefore predates the publication of the amended ordinance.

**LEGAL NOTICE**

IN THE COURT OF COMMON  
PLEAS OF ERIE COUNTY,  
PENNSYLVANIA

NORTHWEST SAVINGS BANK,  
Plaintiff,

v.

TOD BUCHANAN, Defendant  
CIVIL ACTION - LAW

NO. 13912-2009

TOD BUCHANAN SHOULD  
TAKE NOTICE that Northwest  
Savings Bank has filed a Complaint  
in Mortgage Foreclosure against  
him concerning the property  
commonly known as 1541 West  
42nd Street, Erie, Pennsylvania.

**NOTICE**

If you wish to defend, you must enter  
a written appearance personally or  
by attorney and file your defenses  
or objections in writing with the  
court. You are warned that if you  
fail to do so the case may proceed  
without you and a judgment may  
be entered against you by the court  
without further notice for the relief  
requested by the Plaintiff. You may  
lose money or property or other  
rights important to you.

You should take this paper to your  
lawyer at once. If you do not have a  
lawyer, go to or telephone the office  
set forth below. This office can  
provide you with information about  
hiring a lawyer.

If you cannot afford to hire a  
lawyer, this office may be able  
to provide you with information  
about agencies that may offer legal  
services to eligible persons at a  
reduced fee or no fee.

Lawyers Referral &  
Information Service

P.O. Box 1792

Erie, PA 16507

(814) 459-4411

Mon - Fri - 8:30 a.m. - 3:00 p.m.

Kurt L. Sundberg, Esq.

Marsh Spaeder Baur Spaeder

& Schaaf, LLP

Attorneys for Plaintiff

300 State Street, Suite 300

Erie, Pennsylvania 16507

(814) 456-5301

Oct. 23

**LEGAL NOTICE**

NOTICE OF ACTION IN

MORTGAGE FORECLOSURE  
IN THE COURT OF COMMON  
PLEAS OF ERIE COUNTY,  
PENNSYLVANIA

CIVIL ACTION - LAW

NO. 11846-09

Deutsche Bank National Trust  
Company, as Trustee for Meritage  
Mortgage Loan Trust 2005-2,  
4708 Mercantile Drive,  
Fort Worth, TX 76137, Plaintiff

v.

Krista Baker, 723 East 23rd Street,  
Erie, PA 16503, Defendant

NOTICE OF SALE OF REAL  
PROPERTY

To: Krista Baker, Defendant, 723  
East 23rd Street, Erie, PA 16503  
Your house (real estate) at 723  
East 23rd Street, Erie, PA 16503 is  
scheduled to be sold at the Sheriff's  
Sale on November 20, 2009 at 10:00  
a.m. in the Erie County Courthouse,  
West Sixth Street, Erie, PA 16501,  
to enforce the court judgment of  
77,864.72, obtained by Plaintiff  
above (the mortgagee) against  
you. If the sale is postponed, the  
property will be relisted for the Next  
Available Sale.

ALL THAT CERTAIN piece  
or parcel of land situate in the  
City of Erie, County of Erie and  
Commonwealth of Pennsylvania,  
part of Out Lot No. 127 as originally  
laid out and identified in the general  
Plan of the City of Erie, bounded  
and described as follows:

COMMENCING at a point in the  
north line of Out Lot No. 127, distant  
thereon easterly two hundred eighty-  
seven and five-tenths (287.5) feet  
from the northwest corner of said  
Out Lot No. 127; thence southerly  
and parallel with the west line of  
said Out Lot No. 127, one hundred  
sixty-five (165) feet to a point; thence  
westerly and parallel with the north  
line of said Out Lot No. 127, fifty  
(50) feet to a point; thence northerly  
and parallel with said west line of Out  
Lot No. 127, one hundred sixty-five  
(165) feet to the north line of Out Lot  
No. 127; thence easterly along said  
north line of Out Lot No. 127, fifty  
(50) feet to the place of beginning.  
SUBJECT nevertheless to the  
northerly part thereof now being

used as a highway and known as  
23rd Street.

HAVING erected thereon a  
one-family frame dwelling  
commonly known and municipally  
numbered as 723 East 23rd Street,  
Erie, Pennsylvania 16503 and  
bearing Erie County Tax ID No.  
(18) 5010-110.

BEING KNOWN AS: 723 EAST  
23RD STREET, ERIE, PA 16503

PROPERTY ID NO.: 18-5030-110  
TITLE TO SAID PREMISES IS  
VESTED IN Krista Baker by Deed  
from RLD Enterprises of Erie,  
Inc., a Corporation dated 3/31/05  
recorded 4/4/05 in Deed Book 1222  
page 387.

Mark J. Udren, Stuart Winneg,

Louis A. Simoni, Lorraine Doyle,

Alan M. Minato and

Chandra M. Arkema

Attorneys for Plaintiff

Udren Law Offices, P.C.

111 Woodcrest Rd., Ste. 200

Cherry Hill, NJ 08003

856-482-6900

Oct. 23

**LEGAL NOTICE**

IN THE COURT OF COMMON  
PLEAS OF ERIE COUNTY,  
PENNSYLVANIA

IN THE MATTER OF THE

ADOPTION OF BABY GIRL K.

Orphans' Court Division

No. 41 in Adoption 2009

TO: JOHN DOE

At the instance of ADOPTION  
BY CHOICE, the petitioner in the  
above case, you, JOHN DOE,  
laying aside all business and  
excuses whatsoever, are hereby  
cited to be and appear before the  
Orphans' Court of Erie County,  
Pennsylvania, at the Erie County  
Court House, Court Room No.  
I, City of Erie, Pennsylvania, on  
November 17, 2009 at 9:30 p.m.,  
and then and there show cause, if  
any you have, why your parental  
rights to Baby Girl K., born  
January 31, 2009, at Saint Vincent  
Health Center, Erie, Pennsylvania,  
should not be terminated, in  
accordance with the Petition  
For Involuntary Termination Of  
Parental Rights filed on October 15,  
2009 at the above term and number.  
The Petition alleges you, by conduct

continuing for a period of at least six (6) months immediately preceding the filing of the petition, either have evidenced a settled purpose of relinquishing parental claim to the child or have failed or refused to perform parental duties. You hereby are notified that the Confirmation of Consent of the Natural Mother of Baby Girl K. also will take place on November 17, 2009 at 9:30 p.m. before the Honorable John A. Bozza.

If it is your intention to contest these proceedings you, or your attorney, are further directed to immediately notify the Family/Orphans' Court Administrator, Room 205, Erie County Court House, Erie, PA 16501 or at (814) 451-6251 or the office of the Honorable John A. Bozza. Herein fail not under penalty of the law.

A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Girl K. The Court has set a hearing to consider ending your rights to your child. That hearing will be held before the Honorable John A. Bozza at the Erie County Court House, Erie, Pennsylvania on the date and at the time set forth above. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present and if you fail to file a written objection to such termination with the court prior to the hearing.

You have the right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or can not afford one, go to or telephone the office set forth below to find out where you can get legal help.

Lawyers' Referral Service  
PO Box 1792  
Erie, Pennsylvania 16507  
(814) 459-4411

M. Kathryn Karn, Esquire  
731 French Street  
Erie, Pennsylvania 16501  
Telephone: (814) 452-3151

LEGAL NOTICE

ATTENTION: KEVIN M. LINGENFELTER  
INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE  
ADOPTION OF MINOR MALE  
AND FEMALE CHILDREN  
(A.M.L.); DOB: 08-01-07 AND  
(L.M.L.); DOB: 08-30-08

#80 AND 80A IN ADOPTION, 2009  
If you could be the parent of the above mentioned children, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Bozza, Court Room No. 1, City of Erie on November 17, 2009, at 9:15 a.m. and then and there show cause, if any you have, why your parental rights to the above children should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your children. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your children may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's  
Court Administrator  
Room 204 - 205  
Erie County Court House  
Erie, Pennsylvania 16501  
(814) 451-6251

LEGAL NOTICE

ATTENTION: CHRISTOPHER TENON OR UNKNOWN FATHER  
INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE  
ADOPTION OF MINOR MALE  
CHILD (J.G.C.); DOB: 12-26-07  
BORN TO: STEPHANIE  
RODRIGUEZ

#57 IN ADOPTION, 2009  
If you could be the parent of the above mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Bozza, Court Room No. 1, City of Erie on November 5, 2009, at 9:00 a.m. and then and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your child and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's  
Court Administrator  
Room 204 - 205  
Erie County Court House  
Erie, Pennsylvania 16501  
(814) 451-6251

**LEGAL NOTICE**

**NOTICE ON HEARING ON  
PETITION TO INVOLUNTARY  
TERMINATE PARENTAL  
RIGHTS**

IN RE: Adoption of Sebastian Serenity Owens, also known as Sebastian Owens; No 112 of 2009 in the Orphan's Court Division of Westmoreland County, Pennsylvania.

Notice to: UNKNOWN BIRTH FATHER OR PUTATIVE BIRTH FATHER OF SEBASTIAN SERENITY OWENS, ALSO KNOWN AS SEBASTIAN OWENS, born March 20, 2009, at The Chester County Hospital, West Chester, Chester County, Pennsylvania, to the Birth Mother, Gina Coverdale, also known as

Gina Marie Owens. The Court has set a hearing to consider ending your rights to your child. That hearing will be held before the Honorable Chris Feliciani, in Courtroom No. 10, Westmoreland County Courthouse, 2 North Main Street, Greensburg, Pennsylvania 15601, on December 29, 2009, at 9:30 A.M. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without you being present. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth

below to find out where you can get legal help. This office can provide you with information about hiring a lawyer.

If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

Westmoreland Bar Association  
P.O. Box 565  
Greensburg, PA 15601  
(724) 834-8490

Jeffrey J. Lochner, Esquire  
Attorney at Law  
300 Weyman Plaza, Suite 180  
Pittsburgh, PA 15236  
(412) 881-4380

Oct. 16, 23, 30

**LEGAL NOTICE**

IN THE MATTER OF PROCEEDING BY THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE FOR THE CONDEMNATION OF PROPERTY OF:

SHANELL LEE, EXE. TO THE ESTATE OF PEARLY EDWARDS; ANGEL J. SMITH; LINDA SUE RIHEL; DONALD L. DURHAM; ROBERT L. CROSBY, SR. AND ROSE M. CROSBY A/K/A ROSE M. ASBURY; RC MARKETING, INC. MARY ANNE FETZNER AND ROBERT FETZNER (DECEASED); LORRAINE ALLEN, EXE. TO THE ESTATE OF MADELINE GAINES; ADMINISTRATOR OF VETERANS AFFAIRS; W.C. WOODARD; JOHN W. MCNAUGHTON AND HELEN MCNAUGHTON; ROBERT E. REINWALD AND LAUREL S. REINWALD OWNER(S) OR REPUTED OWNER(S)

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

DOCKET NOS.: 14771-07; 11401-09; 11400-09; 11398-09; 11401-09; 14677-09; 14676-09; 14675-09; 14679-09; 14678-09; 14680-09

EMINENT DOMAIN

**NOTICE OF CONDEMNATION**

In accordance with Section 305 of the Eminent Domain Code of 1964, 26 P.S. §305, the Redevelopment Authority of the City of Erie hereby notifies the owner(s) or reputed owner(s) (hereinafter "Condemnee(s)"), and any mortgagee and/or lienholder of record that

1. The property below-referenced has been condemned by the Authority for the purposes of elimination of blight and promotion of urban renewal and rehabilitation pursuant to its authority under the Urban Redevelopment Law at 35 P.S. §§ 1701, 1712 and 1712.1.

2. A Declaration of Taking was filed on the below-referenced date, in the Court of Common Pleas of Erie County, Pennsylvania at the below-referenced term and number.

3. The filing of the Declaration of Taking and this Notice of Condemnation were authorized by Resolution of the Authority, adopted at a public meeting at the below-referenced date, and the resolution may be examined at the offices of the Redevelopment Authority of the City of Erie at the address set forth below in paragraph 5.

4. The Condemnee(s) and the properties being condemned, including the docket numbers at which the Declaration of Taking was filed, are as follows:

**ERIE COUNTY LEGAL JOURNAL**

COMMON PLEAS COURT

LEGAL NOTICE

COMMON PLEAS COURT

<b>Condemnee(s)</b>	<b>Lienholder(s)/ Mortgagee(s) unable to be served</b>	<b>Address of Condemned Property</b>	<b>Index Number of Condemned Property</b>	<b>Docket Number / Condemnation Action</b>	<b>Date of Public Meeting</b>	<b>Date Declaration of Taking filed</b>
Shanell Lee, Exe. of the Estate of Pearly Edwards		2316 Parade St.	(18) 5014-103	14771-07	7/17/06	10/31/07
Angel J. Smith	Wendover Funding, Inc.	240 East 22nd St.	(18) 5009-141	11401-09	1/12/09	3/27/09
Linda Sue Rihel		4038 Warsaw Ave.	(18) 5242-102	11400-09	5/19/08	3/27/09
Donald L. Durham		2304 French St.	(18) 5002-105	11398-09	5/19/08	3/27/09
Robert L. Crosby, Sr. and Rose M. Crosby, a/k/a Rose M. Asbury		304 East 22nd St.	(18) 5013-126	11401-09	5/19/08	3/27/09
RC Marketing, Inc.; Maryanne Fetzner and Robert Fetzner (deceased)		737 Rosedale Ave	(14) 1022-107	14677-09	2/16/09	10/16/09
Lorraine Allen, Exe. to the Estate of Madeline Gaines		316 East 3rd St.	(14) 1012-232	14676-09	2/16/09	10/16/09
Administrator of Veterans Affairs	Patricia Wnukowski, a/k/a Patricia Conley	704 East 5th St.	(14) 1023-215	14675-09	2/16/09	10/16/09
W.C. Woodard	Unicredit America Inc.; June Crouch; and Norris Edwards (deceased)	329 Newman St.	(14) 1032-224	14679-09	7/20/09	10/16/09
John W. McNaughton and Helen McNaughton	Robert M. Frew, Jr. and Anne Frew	436 East 7th St.	(14) 1013-432	14678-09	5/19/08	10/16/09
Robert E. Reinwald and Laurel S. Reinwald	Joseph M. Hermann, III	502-504 East 10th St.	(15) 2026-129	14680-09	2/16/09	10/16/09

5. The Condemnor is the Redevelopment Authority of the City of Erie whose offices are located at 917 State Street, Erie, Pennsylvania 16501.

6. The nature of the title acquired in and to the condemned property is fee simple title.

7. The Authority Condemnor has secured the payment of just compensation for the Condemnee(s) by the filing with the Declaration of Taking a bond, without surety, payable to the Commonwealth of Pennsylvania for the use of the owner of the property interests condemned, the condition of which shall be that the Condemnor shall pay the damages determined by law as authorized by 26 P.S. § 303(a).

8. A written offer of just compensation based on the fair market value of the condemned property, which amount compensates the Condemnee(s) for any loss sustained as a result of the condemnation of the property, has been prepared. Please contact Lorie Watson at Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501, (814) 459-2800 during normal business hours to receive your written offer of just compensation and/or to review full copies of the Declaration of Taking and Notice of Condemnation.

**IF THE CONDEMNEE(S) WISHES TO CHALLENGE THE POWER OR RIGHT OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE AS CONDEMNOR TO APPROPRIATELY CONDEMNED PROPERTY, THE SUFFICIENCY OF THE SECURITY, THE PROCEDURE FOLLOWED BY THE CONDEMNOR OR THE DECLARATION OF TAKING, THE CONDEMNEE(S) SHALL FILE PRELIMINARY OBJECTIONS TO THE DECLARATION OF TAKING WITHIN THIRTY (30) DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE.**

REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE

Jennifer E. Gornall, Esq.

Knox McLaughlin Gornall & Sennett, P.C.

120 West Tenth Street, Erie, PA 16501-1461

Phone: 814-459-2800

Oct. 23

AUDIT LIST  
NOTICE BY  
PATRICK L. FETZNER

Clerk of Records,  
Register of Wills and Ex-Officio Clerk of  
the Orphans' Court Division, of the  
Court of Common Pleas of Erie County, Pennsylvania

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Monday, October 26, 2009** and confirmed Nisi.

**November 19, 2009** is the last day on which Objections may be filed to any of these accounts.

Accounts in proper form and to which no Objections are filed will be audited and confirmed absolutely. A time will be fixed for auditing and taking of testimony where necessary in all other accounts.

<u>2009</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
291.	Martha S. Yoko .....	Patricia Fletcher, Exrx. ....	Elderkin Martin Kelly & Messina
292.	Charlotte J. Ridgely aka Miss Charlotte Stuntz aka Mrs. Charlotte Ridgely aka C. J. Ridgely aka Charlotte Ridgely .....	Myrellen Evans, Exrx. ....	Knox McLaughlin Gornall & Sennett, P.C.
293.	Steven William Sterrett .....	Sheila F. Sterrett, Admr. ....	Robert E. McBride

PATRICK L. FETZNER  
Clerk of Records  
Register of Wills & Orphans' Court Division

Oct. 23, 30

**ESTATE NOTICES**

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

**FIRST PUBLICATION**

**BAKER, EDWARD T., JR.,  
deceased**

Late of the Township of Summit, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Charles W. Baker, c/o 227 West 5th Street, Erie, PA 16507  
*Attorney:* Mark O. Prenatt, Esquire, 227 West 5th Street, Erie, Pennsylvania 16507

**BEICHRNER, RONALD W.,  
deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania  
*Executrix:* Maryann Serkin, c/o 900 State Street, Suite 104, Erie, PA 16501  
*Attorney:* Thomas V. Myers, Esquire, Nichols & Myers, P.C., 900 State Street, Suite 104, Erie, PA 16501

**BLACKBURN, MARY E.,  
deceased**

Late of Millcreek Township, Erie, Pennsylvania  
*Executors:* Mark R. Blackburn and Matthew T. Blackburn, c/o Jerome C. Wegley, Esq., 120 West 10th Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**CHETONI, PAUL A.,  
deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania  
*Administrator:* Sumner E. Nichols, II, Esquire, Nichols & Myers, P.C., 900 State Street, Suite 104, Erie, PA 16501  
*Attorney:* Sumner E. Nichols, II, Esquire, Nichols & Myers, P.C., 900 State Street, Suite 104, Erie, PA 16501

**GREEN, BEN H., a/k/a  
BENJAMIN GREEN, JR.,  
deceased**

Late of Union Township, County of Erie, and Commonwealth of Pennsylvania  
*Executor:* Emelee A. Green, 8050 Route 97, Union City, PA 16438  
*Attorney:* Sumner E. Nichols, II, Esquire, Nichols & Myers, P.C., 900 State Street, Suite 104, Erie, PA 16501

**ROBERTS, DARLEEN, a/k/a  
DARLEEN ANN ROBERTS,  
deceased**

Late of the City of Edinboro, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Daniel C. Roberts  
*Attorney:* Joseph T. Messina, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**ROBINS, DONALD H.,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Sharon E. Martin, 809 North Main Street, Auburn, IN 46706-1225  
*Attorney:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**WILKINS, MARGARET,  
deceased**

Late of the City of Erie  
*Executrix:* Sheila A. Winslow, 8346 Sunlake Drive West, Girard, PA 16417  
*Attorney:* None

**SECOND PUBLICATION**

**COOKLIS, MICHAEL,  
deceased**

Late of Erie County, Pennsylvania  
*Co-Executors:* Karen L. Jendruczak and Michael W. Cooklis, c/o David W. Bradford, Esq., 50 West Main Street, North East, PA 16428  
*Attorney:* David W. Bradford, Esq., 50 West Main Street, North East, PA 16428

**DIMPELFELD, DOROTHY K.,  
deceased**

Late of the City of Erie  
*Executor:* Jack M. Gornall, 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jack M. Gornall, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**FIGLIOMENI, FRANCES,  
deceased**

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Lisa Davis, 300 State Street, Suite 300, Erie, PA 16507  
*Attorney:* Thomas E. Kuhn, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**JONES, WARREN H., a/k/a  
WARREN JONES,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* T. Warren Jones, 100 State Street, Suite 700, Erie, PA 16507-1459  
*Attorney:* James D. Cullen, Esquire, MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459



**KUPNIEWSKI, ELEANOR a/k/a  
ELEANORE KUPNIEWSKI,  
deceased**

Late of the City of Erie, County of Erie, State of Pennsylvania  
*Executor:* Raymond P. Kupniewski, 912 Rice Avenue, Girard, Pennsylvania 16417  
*Attorney:* James R. Steadman, Esq., 24 Main St. E., Girard, Pennsylvania 16417

**LAMP, CURTIS E., JR.,  
deceased**

Late of the Township of Fairview  
*Co-Administratrices:* Patricia M. Thayer and Lisa L. Lamp  
*Attorney:* Norman A. Stark, Esquire, The Stark Law Firm, 100 State Street, Suite 210, Erie, PA 16507.

**LANGE, LEONA M.,  
deceased**

Late of the Township of Union, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Michelle M. Blystone, 5 Miles Street, Union City, PA 16438  
*Attorney:* Jeffrey G. Herman, Esq., Herman & Herman, 412 High Street, Waterford, PA 16441

**McDANNIELS, EDWARD P., JR.,  
a/k/a E.P. McDANNIELS,  
deceased**

Late of Lawrence Park Township, County of Erie, Pennsylvania  
*Executrix:* Emily S. Tuttle, c/o 150 West Fifth St., Erie, PA 16507  
*Attorney:* Colleen C. McCarthy, Esq., McCarthy, Martone & Peasley, 150 West Fifth St., Erie, PA 16507

**RICHARDS, MARY ELIZABETH,  
deceased**

Late of the Township of Fairview, County of Erie, and Commonwealth of Pennsylvania  
*Executor:* Lenore Matthers  
*Attorney:* James D. McDonald, Jr., Esq., The McDonald Group, L.L.P., P.O. Box 1757, Erie, PA 16507-1757

**RULAND, LARRY KIM,  
deceased**

Late of Springfield Township, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Julie Schmidt, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508  
*Attorney:* Scott L. Wallen, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**WALBRIDGE, VIOLA R.,  
deceased**

Late of Fairview Township, Erie County, Commonwealth of Pennsylvania  
*Executor:* Ronald K. Walbridge, 360 East Main Road, Conneaut, Ohio 44030  
*Attorney:* Charles N. Lafferty, Esq., Lafferty Law Office, 365 Main St., P.O. Box 499, Conneaut, OH 44030

**WALSH, LAURA D.,  
deceased**

Late of North East Borough, Erie County, North East, Pennsylvania  
*Administratrix:* Margaret M. Walsh, c/o Edward Orton, 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Edward Orton, Esq., Orton & Jeffery, P.C., 33 East Main Street, North East, Pennsylvania 16428

**WARD, ROBERT J.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Michael Sobieski, c/o McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507  
*Attorney:* Joseph P. Martone, Esquire, McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

**WEBER, JANET A.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Christine A. Bird-Hall, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorneys:* Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, Attorneys-at-Law, Suite 300, 300 State Street, Erie, PA 16507

**THIRD PUBLICATION**

**DASCANIO, JOHN J.,  
deceased**

Late of Millcreek Township, Erie, Pennsylvania  
*Executor:* Annette Fiorenzo, c/o Thomas C. Hoffman II, Esq., 120 West 10th Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**DEAN, ANNA B.,  
deceased**

Late of the Township of Venango, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Virginia Rothhoff  
*Attorney:* Craig A. Zonna, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**UDENHOEFER, MATILDA M.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Frederick J. Dudenhofer, 3540 Culpepper Drive, Erie, PA 16506  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459



**MILLER, REGINA R., a/k/a  
REGINA RUTH MILLER,  
deceased**

Late of the Township of  
Millcreek, Erie County,  
Pennsylvania

*Executor:* Matthew Richard  
Miller, 935 Langdon Road, Erie,  
PA 16509

*Attorney:* Jeffrey D. Scibetta,  
Esq., Knox McLaughlin Gornall  
& Sennett, P.C., 120 West Tenth  
Street, Erie, PA 16501

**PIFER, HELEN E.,  
deceased**

Late of the City of Erie, County  
of Erie, Pennsylvania

*Executor:* George A. Pifer, c/o  
Thomas E. Larson, 2820 W. 23rd  
St., Suite 101, Erie, PA 16506

*Attorney:* Thomas E. Larson,  
Esq., 2820 W. 23rd St., Suite 101,  
Erie, PA 16506

**WHITESEL, LEE DeWAYNE,  
deceased**

Late of the City of Titusville,  
County of Erie and  
Commonwealth of Pennsylvania

*Executrix:* Rose M. Whitesel, c/o  
504 State Street, Suite 300, Erie,  
PA 16501

*Attorney:* Alan Natalie, Esquire,  
504 State Street, Suite 300, Erie,  
PA 16501

# *Erie County Bar Association*

## *Videoconferencing Services*



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The ECBA will do this for you, and can provide you with that site's hourly rate.

### **DO I HAVE TO OPERATE ANY EQUIPMENT DURING A VIDEOCONFERENCE?**

No. The ECBA staff will handle everything.

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**Rates**, *including scheduling, location of distant site, set up, testing, room rental, and conference*  
Members of the Erie County Bar Association should contact the ECBA office regarding member rates.

For the Public, the Erie County Bar Association charges \$215/hour during business hours of Monday-Friday, 8:30 a.m. - 5:00 p.m. Rates are \$270/hour for conferences within 2 hours before or 4 hours after regular business hours. These rates are for the ECBA receiving a videoconference call initiated by the another site. If we initiate the call, add \$75/hour.

#### *Optional services/fees:*

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\$25/hour - use of conference room before  
and/or after videoconference

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*Contact the Erie County Bar Association for further details or to schedule a demonstration. (814) 459-3111 or [admin@eriebar.com](mailto:admin@eriebar.com)*



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