

92 ERIE 252 - 265 Vaughn, et al., v. Fairview Manor, et al.

Erie County Legal Journal

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

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Erie County Bar Association Calendar of Events and Seminars

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

2417 Registration - J 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 Eric 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)

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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.) 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 Issue's 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) \$210 (nonmember) 4 hours substantive

THURSDAY, NOVEMBER 19, 2009

ECBA Live Seminars Bayfront Convention Center Criminal Law 101 (11:00 a.m. - 12:00 p.m.) AND Real Estate 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

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Nov. 6, 13

Local Non-profit organization position available. Must have outstanding organizational and computer skills; ability to successfully multi-task; proficient in Word, WordPerfect, Excel, InDesign; ability to prioritize and work independently; self motivated; professional. Send resumes to the *Erie County Legal Journal*, Box 8.

Nov. 6



IN THE UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA MOTION COURT DATES FOR CHIEF JUDGE THOMAS P. AGRESTI In Re: ERIE DIVISION SCHEDULING PROCEDURES

NOVEMBER 2009 NOTICE

The following is a list of *November 2009 through January 2010* motion court dates and times to be used for the scheduling of motions pursuant to *Local Rule 9013-5(A)* before **Chief Judge Thomas P. Agresti** in the Erie Division of the Court. The use of these dates for scheduling motions consistent with the requirements of *Local Rule 9013-5(A)* is summarized below and on Chief Judge Agresti's website at: *www.pawb.uscourts.gov.* **The motions will be heard in the Bankruptcy Courtroom, U.S. Courthouse, 17 South Park Row, Erie, PA 16501.** ERIE CH. 13 AND CH. 7 CASES

Counsel for a moving party shall select one of the following dates and times for matters subject to the "self-scheduling" provisions of the *Local Rules* (See Court Website at <u>http://www.pawb.uscourts.gov</u> and W.D. PA Local Rule 9013-5(A), insert same on the notice of hearing for the motion, and serve the notice on all respondents, trustee(s) and parties in interest. Where a particular type of motion is listed at a designated time, filers shall utilize that time for the indicated motions(s) *unless:* (a) special arrangements have been approved in advance by the Court, or, (b) another motion in the same bankruptcy case has already been set for hearing at a different time and the moving party chooses to use the same date and time as the previously scheduled matter.

<u>Scheduling of CHAPTER 13 Motions</u> <u>before Chief Judge Thomas P. Agresti</u> Wednesday, November 18, 2009 Wednesday, December 9, 2009 *changed to Tuesday, December 15, 2009* Wednesday, January 6, 2010 Wednesday, January 27, 2010

1:30 p.m.: Open for all Erie matters 2:00 p.m.: Open for all Erie matters 2:30 p.m.: Open for all Erie matters (Sale, Financing and Extend/Impose Stay Motions scheduled at this time)

<u>Scheduling of CHAPTER 7 Motions</u> <u>before Chief Judge Thomas P. Agresti</u>

Thursday, November 5, 2009 Thursday, November 19, 2009 Thursday, December 3, 2009 Thursday, December 17, 2009 Thursday, January 7, 2010 Thursday, January 21, 2010

1:30 p.m.: Open for all Erie matters 2:00 p.m.: Open for all Erie matters

ERIE CHAPTER 11 CASES

The Self-scheduling Rule does not apply to Chapter 11 cases. Documents are to be electronically filed with the Clerk's Office. Thereafter, scheduling Orders will be issued from Chambers which schedule any required hearings and, where applicable, outline the specific procedures to be utilized. *Any pleadings in Chapter 11 cases which are self-scheduled will be dismissed upon filing.*

ALL OF THE ABOVE DATES ARE SUBJECT TO REVISION. Please check each month for any changes in the dates that have been published previously. THIS SCHEDULE CAN BE VIEWED ON PACER (Public Access to Court Electronic Records) and on the Court's Web Site (<u>www.pawb.uscourts.gov</u>). John J. Horner

Clerk of Court

BRENDA J. VAUGHN, Executor of the Estate of Christine D. Vaughn, Deceased, and GLENDA ARRINGTON, Executor of the Estate of Christine D. Vaughn, Deceased, Plaintiffs

v.

FAIRVIEW MANOR; HCF OF FAIRVIEW, INC.; DAVID C. LESSESKI, D.O., and PRESQUE ISLE FAMILY MEDICINE, INC., Defendants

PLEADINGS / PRELIMINARY OBJECTIONS

Preliminary objections in the form of a demurrer should be sustained only when the facts averred are clearly insufficient to establish the pleader's right to relief. The Court's analysis must be limited to the pleadings alone and may not include testimony or evidence outside the Complaint. Grant of demurrer is appropriate only in those cases so 'clear and free from doubt' that plaintiff will be unable to prove legally sufficient facts to establish any right to relief.

PLEADINGS / GENERAL REQUIREMENTS

While 42 Pa.R.C.P. 1019(a) requires pleadings "to allege the material facts on which a cause of action...is based...in a concise and summary form" the Court has broad discretion in determining the level of specificity that is required. While the pleadings alone may not be sufficient for an adverse party to make adequate preparations for trial, the Court may nevertheless dismiss preliminary objections seeking greater specificity if the Court believes it would be more practical for the adverse party to use discovery to obtain the necessary information.

ALTERNATIVE DISPUTE RESOLUTION / ARBITRATION

Arbitration agreement entered into by decedent will not be enforced in wrongful death and survival lawsuit when lawsuit included parties (wrongful death plaintiffs and a defendant) and claims (wrongful death) that were not subject to arbitration agreement because bifurcation of the arbitrable claims would be an inefficient use of resources for the parties; would create risk of inconsistent results on the same facts; and would unnecessarily protract resolution of the issues.

PLEADINGS / PRELIMINARY OBJECTIONS

Statute of limitations defense may not be raised via preliminary objection.

NEGLIGENCE / ACTS OR OMISSIONS CONSTITUTING

Negligence *per se* can be established by demonstrating (1) the violation of a statute or regulation designed to protect a group of individuals (as opposed to the public) (2) which statute clearly applies to the defendant's conduct; and (3) the violation of which is the proximate cause of plaintiff's injury.

NEGLIGENCE / ACTS OR OMISSIONS CONSTITUTING

18 Pa. C. S. § 2713, which defines offenses relating to the neglect of a dependent person by a "caretaker," has as its purpose the protection of

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care-dependent individuals and may be furthered by claims of plaintiffs alleging injury stemming from a violation of the act. Thus, its violation may establish negligence *per se*.

NEGLIGENCE / ACTS OR OMISSIONS CONSTITUTING

The corporate liability doctrine imposes on hospitals: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients.

NEGLIGENCE/ACTS OR OMISSIONS CONSTITUTING

The corporate liability doctrine applies to nursing homes when there is a comprehensive control by the nursing home over the resident's medical treatment and care.

NEGLIGENCE / NECESSARY ALLEGATIONS OF PLEADINGS

Allegations in complaint that resident entered nursing home; engaged the home to provide nursing care; and also selected the nursing home's medical director to be her primary physician sufficiently described the pervasive nature of the nursing home's control over her care to withstand nursing home's demurrer to claim of corporate negligence.

PLEADINGS / PRELIMINARY OBJECTIONS

Failure to identify the specific employees or agents whose actions give rise to a claim for vicarious liability is not a fatal pleading defect because the defendant employer can obtain this information through the discovery process.

NEGLIGENCE / ACTS OR OMISSIONS CONSTITUTING

Nursing home does not have duty to notify each and every family member of dependent's physical condition but nursing home does have a duty to so notify the resident or her guardian, power of attorney or contact person and cause of action premised on nursing home's failure to so notify an appropriate person will not be dismissed on preliminary objection.

TORTS / BATTERY / INFORMED CONSENT

Allegation that defendant physician was negligent in "(H)olding out expertise which induced decedent and her family that adequate and proper care would be provided when, in fact, adequate proper and reasonable care were not provided" is not sufficient to serve as the basis of a claim for lack of informed consent because informed consent sounds in battery, not negligence.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA CIVIL DIVISION NO. 15969-2008

254	Vaughn, et al., v. Fairview Manor, et al.
Appearances:	Christina S. Nacopoulos, Esq., Attorney for Plaintiffs Brenda Vaughn and Glenda Arrington Thomas M. Lent, Esq., Attorney for Defendants, Fairview Manor and HCF of Fairview, Inc. Steven S. Forry, Esq., Attorney for Defendants, David C. Lesseski, D.O. and Presque Isle Family Medicine, Inc.

COUNTRY FOUL TOURNAS

OPINION AND ORDER

DiSantis, Ernest J., Jr., J.

This case comes before this Court on the preliminary objections filed by all defendants and the Motion For Sanctions pursuant to Rules 1023.2

and 1023.4 filed by Fairview Manor and HCF of Fairview, Inc.

I. <u>BACKGROUND OF THE CASE¹</u>

A. Procedural History

Plaintiffs initiated this action by filing a writ of summons on December 10, 2008. Defendant Lesseski filed a Rule To File Complaint on February 23, 2009. On March 12, 2009, plaintiffs filed a Motion For Pre-Complaint Discovery/Motion To Stay Rule To File Complaint. Defendants Fairview Manor and HCF of Fairview, Inc. ("HCF") objected. Plaintiffs' motion was granted in part by this Court. On May 12, 2009, plaintiffs filed a 71-page Complaint alleging wrongful death and survival actions against each defendant. Plaintiffs further allege cause of actions for corporate liability and negligence per se against Fairview Manor. On June 4, 2009, Lesseski and Presque Isle Family Medicine, Inc. ("PIFM") filed preliminary objections and a brief in support. On June 4, 2009, Fairview Manor and HCF filed preliminary objections. They filed a supporting brief on June 12, 2009. On June 24, 2009, Lesseski and PIFM filed a supplemental brief in connection with the parties' pending preliminary objections. On June 26, 2009, Fairview Manor and HCF filed the motion for sanctions referred to above. On July 6, 2009, plaintiffs filed a brief in opposition to the Lesseski and PIFM preliminary objections. On July 8, 2009, plaintiffs filed a brief in opposition to the preliminary objections filed on behalf of Fairview Manor and HCF. On July 8, 2009 plaintiffs filed a brief in response to Fairview Manor & HCF's Motion To Compel Arbitration and Lesseski and PIFM's supplemental brief regarding arbitration. Ancillary filings

followed.

B. Factual History

On January 25, 2005, Christine D. Vaughn was admitted to Fairview Manor for nursing care. During the course of her stay, Dr. Lesseski, Fairview Manor's Medical Director, became her personal physician.

¹ The background of the case is based upon the filings of record.

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Upon admission, Ms. Vaughn was ambulatory and free of any pressure sores or infections. Her medical conditions were manageable and none were life-threatening. During her stay at Fairview Manor, she developed pressure ulcers, immobility and a deterioration of her physical condition. She had a number of accidents which resulted in unexplained bruising and skin breakdowns. The pressure ulcers occurred on several areas of her body, including her feet, coccyx and thighs. The skin breakdown occurred on virtually all areas of her body. In and around December 2006, she experienced a clostridium difficile infection that caused diarrhea. This condition eventually progressed to toxic colitis. She became so dehydrated that her kidneys shut down. In October, 2006, she was hospitalized at Hamot Medical Center in Erie. After treatment, she was discharged. She was readmitted on December 11, 2006, when she showed signs of massive dehydration and stage four pressure ulcers. They were oozing, painful and fistdeep. Her clostridium difficile infection had progressed to the point that her white blood cell count was so grossly abnormal that she had no chance of recovering. Ms. Vaughn died on December 20, 2006.

II. THE MOTIONS BEFORE THE COURT

The motions currently before the Court can be summarized as follows:

A. Preliminary Objections of Fairview Manor and HCF

Defendants assert that this matter must be submitted to arbitration, relying upon Section IV of the Admissions Agreement signed by Glenda Vaughn (as Christine Vaughn's power of attorney) on January 25, 2005. They request that, pursuant to Pa.R.Civ. P. 1028(a)(6), preliminary objections be sustained because the agreement compels alternative dispute resolution.

They also request this Court strike Count I ¶¶ 30 - 34, 98 - 102, 160 - 162, 165 - 168, 172 - 173, 183 - 184, subparagraphs 185(a) - (i), (o) - (u), 9(w) - (ff), (jj) - (nn), (pp) - (ccc), (eee) - (qqq) and 186 of the complaint. They posit that the plaintiffs' allegations are so vague and overbroad that plaintiffs can assert almost any theory of liability, without specifically defining their claims. See, ¶¶ 26 - 30 of the preliminary objections.

These defendants further argue that the complaint is deficient because plaintiffs have failed to identify the names of agents, servants, employees, staff members, etc. who were engaged in conduct that supports the claims. See, $\P\P$ 31 - 39 of the preliminary objections. Defendants point out that plaintiffs - through pre-complaint discovery - had the means to identify those individuals who treated the plaintiff. Defendants state it is virtually impossible for them to respond to the vicarious liability claim because defendants do not know through whom the actions are imputed. See, $\P\P$ 40 - 46 of the preliminary objections.

Defendants have moved to strike all alleged scandalous and

impertinent material. They strenuously object to the plaintiffs' allegations of negligence *per se* predicated upon the violation of a criminal statute, 18 Pa.C.S.A. § 2713.² They further object to plaintiffs' assertion of a cause of action based upon Fairview Manor's failure to notify the deceased's family of the nature, extent and severity of her condition. They argue that no such duty exists in Pennsylvania. See, ¶¶ 47 - 56 of the preliminary objections.

Defendants further argue that many of the events occurred beyond the two-year statute of limitations. See, $\P\P$ 58 - 64 of the preliminary objections.

Defendants also contend that allegations of corporate liability/ negligence should be stricken from the complaint because Pennsylvania's appellate courts do not recognize a cause of action for corporate negligence against a nursing home. See, ¶¶ 66 - 75 of the preliminary objections.

Finally, defendants have moved to strike any claim for punitive damages for insufficient specificity of the pleading.

B. Preliminary Objections of Defendants Lesseski and PIFM

These defendants first argue that there is no Pennsylvania law supporting the plaintiffs' purported theory that there was a duty to notify the patient's entire family of the nature, extent and severity of her condition. They state that there is no negligence survival claim extant in Pennsylvania predicated upon that basis. See, ¶¶ 8 - 12 of the preliminary objections. They also argue that the alleged cause of action for lack of informed consent against Dr. Lesseski cannot stand absent an allegation that he misrepresented his expertise and that this caused the decedent to choose him rather than another physician. See, ¶¶ 13 - 15 of the preliminary objections.

Defendants move to strike plaintiffs' allegation of lack of informed consent based upon plaintiffs' claims that Dr. Lesseski was negligent by: "Holding out expertise which induced decedent and her family that adequate and proper care would be provided when, in fact, adequate proper and reasonable care were not provided". Complaint, ¶ 192 vv.

² That statute provides, in part:

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§2713. Neglect of care-dependent person

(a) Offense defined. -- A caretaker is guilty of neglect of a care-dependent person if he:

The term "caretaker" is defined in subsection (f) of the statute. It includes the owner, operator, manager or employee of a nursing home.

⁽¹⁾ Intentionally, knowingly or recklessly causes bodily injury or serious bodily injury by failing to provide treatment, care, goods or services necessary to preserve the health, safety or welfare of a care-dependent person for whom he is responsible to provide care....

After review, this Court agrees with defendants that this cannot serve as the basis of a lack of informed consent claim because that type of claim sounds in battery, not negligence. To the extent plaintiffs allege a cause of action for fraudulent representation, it is not properly pleaded.

Defendants also move to strike paragraphs 192(ww) through 192(bbb) of the complaint on the grounds that the allegations are vague and boilerplate. See, ¶¶ 16 - 21 of the preliminary objections.

Defendants next argue that: (1) references to "punitive" and "reckless" conduct found in Complaint ¶¶ 193, 197 - 209 should be stricken because there are no degrees of negligence in Pennsylvania; and (2) the allegations do not support a claim for punitive damages. See, ¶¶ 22 - 35 of the preliminary objections.

Defendants also move to strike ¶ 193(d), a survival claim, because under their interpretation of Pennsylvania Law, these damages are only available under the Wrongful Death Act, 42 Pa.C.S.A. § 8301. They conclude that duplicative damages cannot be awarded. See, ¶¶ 36 - 40 of the preliminary objections.

Plaintiffs have filed a response asserting counter arguments.

C. Motion For Sanctions

Defendants Fairview Manor and HCF filed a Motion For Sanctions pursuant to Pa.R.Civ.P. 1023.2 and 1023.4. In brief, they seek to strike any allegations that the defendants violated 18 Pa.C.S.A. § 2713. They further request sanctions because the plaintiffs refused to submit the controversy to arbitration. As part of their claim, they request reasonable attorneys' fees and costs for preparing and presenting the sanctions motion, as well as for preparing and presenting their preliminary objections and brief.

Plaintiffs oppose this motion as well.

III. LEGAL DISCUSSION

Preliminary objections are governed by Pa.R.C.P. 1028. The rule provides that:

(a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

(1) lack of jurisdiction over the subject matter of the action or the person of the defendant, improper venue or improper form or service of a writ of summons or a complaint;

(2) failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter;

- (3) insufficient specificity in a pleading;
- (4) legal insufficiency of a pleading (demurrer);

(5) lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action; and

(6) pendency of a prior action or agreement for alternative dispute resolution.

Generally, a preliminary objection in the form of a demurrer should be sustained when the facts averred are clearly insufficient to establish the pleader's right to relief. *HCB Contractors v. Liberty Palace Hotel Associates*, 652 A.2d 1278, 1279 (Pa. 1995). Moreover, when taking into account a motion for a demurrer, the trial court must recognize as true "'all well-pleaded material facts set forth in the complaint and all inferences fairly deducible from those facts." *Yocca v. Pittsburgh Steelers Sports, Inc.*, 854 A.2d 425, 436 (Pa. 2004) (quoting *Small v. Horn*, 722 A.2d 664, 668 (Pa. 1998)).

Additionally, "conclusions of law and unjustified inferences are not admitted by the pleadings," Lobolito, Inc., v. North Pocono Sch. Dist, 755 A.2d 1287, 1289 n.2 (Pa. 2000), and the trial court must resolve the intrinsic worth "of the preliminary objections 'solely on the basis of the pleadings' and not on testimony or evidence outside the complaint." Belser v. Rockwood Casualty Ins. Co., 791 A.2d 1216, 1219 (Pa. Super. 2002) (quoting Williams v. Nationwide Mut. Ins. Co., 750 A.2d 881, 883 (Pa. Super. 2000)); see also Texas Keystone, Inc., Pennsylvania Department of Conservation and Natural Resources, 851 A.2d 228, 239 (Pa.Cmwlth. 2004). A demurrer confronts the pleadings insisting that under the cause of action, relief cannot "be granted under any theory of law." See Regal Industrial Corp., v. Crum and Forster, Inc., 890 A.2d 395, 398 (Pa.Super. 2005); Sutton v. Miller, 692 A.2d 83, 87 (Pa. Super. 1991); see also Prevish v. Northwest Med. Ctr., 692. A.2d 192, 197 (Pa.Super. 1997), affirmed, 553 Pa. 73, 717 A.2d 1023 (1998) (citing Chiropractic Nutritional Assoc., Inc. v. Empire Blue Cross and Blue Shield, 669 A.2d 975, 984 (Pa.Super. 1995) ("...a dismissal of a cause of action should be sustained only in cases that are [so] 'clear and free from doubt' that the plaintiff [litigant] will be unable to prove legally sufficient facts to establish any right to relief.").

Pleading is governed by Pa.R.C.P. 1019. Rule 1019(a) requires pleadings "to allege the material facts on which a cause of action ... is based ... in a concise and summary form," and a court must ascertain whether the facts alleged are "sufficiently specific so as to enable defendant to prepare his defense." *Smith v. Wagner*, 588 A.2d 1308, 1310 (Pa. 1991) (quoting *Baker v. Rangos*, 324 A.2d 498, 505-506 (Pa. Super. 1974)). 'Material facts' are 'ultimate facts,' i.e., those facts essential to support the claim. *The General State Authority v. The Sutter Corporation*, 356 A.2d 377, 381 (Pa.Cmwlth. 1976); See also,

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The General State Authority v, The Sutter Corporation, 403 A.2d 1022, 1025 (Pa.Cmwlth. 1979).

Regarding the level of specificity in pleadings, the court has broad discretion in determining the amount of detail. *United Refrigerator Co. v. Applebaum*, 189 A.2d 253, 254 (Pa. 1963). In lieu of preliminary objections, a party may avail itself of the Pennsylvania Rules of Civil Procedure regarding discovery at 4001 *et seq.*, if it believes facts are required which were not contained, as desired, in a particular pleading. *Brandeis v. Kenny*, 31 Pa. D. & C. 2d 347, 349 (C.P. Montgomery Co. 1963) (holding that if a party believes themselves unable from the pleadings alone to make adequate preparations for trial they may resort to the Pennsylvania Rules of Civil Procedure). As between the use of preliminary objections and/or discovery to obtain material facts as to a party's cause of action or defense, a court may dismiss the preliminary objections if it believes discovery to be more practical than further pleadings. *Brandeis*, 31 Pa. D. & C. 2d at 352.

Whether this controversy should be submitted to arbitration?

The arbitration provision is set forth in Section IV of the Admission Agreement which was signed by Glenda Vaughn (as Christine Vaughn's power of attorney) and Fairview Manor on January 25, 2005, the day of Christine Vaughn's admission. It provides that:

IV. RESOLUTION OF LEGAL DISPUTES

The parties wish to work together to resolve any disputes in a timely fashion and in a manner that minimizes both of their legal costs. Therefore, in consideration of the mutual promises contained in this Agreement, You and the Manor agree to submit legal disputes to binding arbitration, as follows:

A. Disputes To Be Arbitrated. Any legal controversy, dispute, disagreement or claim of any kind now existing or occurring in the future between the parties arising out of or in any way relating to this Agreement or the Resident's stay at the Manor shall be settled by binding arbitration, including but not limited to, all claims based on breach of contract, negligence, medical malpractice, tort, breach of statutory duty, resident's rights, and any departures from accepted standards of care. This includes claims against the Manor, its employees, agents, officers, directors, any parent, subsidiary or affiliate of the Manor.

Section V of the Admission Agreement (miscellaneous matters) states, in pertinent part, as follows:

E. Partially Illegality. This Agreement shall be construed in accordance with the laws of the State of Pennsylvania, and

the county in which the Manor is located, and shall be the sole and exclusive venue for any dispute between the parties. If any portion of this Agreement is determined to be illegal or not in conformity with applicable laws and regulations, such part shall be deemed to be modified so as to be in accordance with such laws and regulations, and the validity of the balance of this Agreement shall not be affected,

(emphasis added). The last page also has a caveat (in bold capitalization) as follows:

I DO FOR MYSELF (AND ON BEHALF OF THE RESIDENT, IF APPROPRIATE), AND THE HEIRS, ADMINISTRATORS AND EXECUTORS OF MYSELF AND THE RESIDENT, AGREE TO THE TERMS OF THIS AGREEMENT IN CONSIDERATION OF THE FACILITY'S ACCEPTANCE OF AND RENDERING SERVICES TO THE RESIDENT.

Arbitration agreements are strictly construed and should not be extended by implication. *Hassler v. Columbia Gas Transmission Corp.*, 464 A.2d 1354 (Pa Super 1983); *Cumberland - Perry Area of Vocational - Technical School Authority v. Bogar & Bink*, 396 A.2d 433 (Pa. Super. 1978). They are contracts and it is for the court to determine whether an expressed agreement between the parties to arbitrate exists or existed. *Smith v. Cumberland Group, LTD.*, 687 A.2d 1167, 1171 (Pa. Super. 1997). The Court may enforce certain provision of arbitration agreements while setting aside others based upon valid contract defenses such as duress, illegality, fraud and unconscionability. *Lytle v. CitiFinancial Services*, 810 A.2d 643, 656-657 (Pa. Super. 2002). abrogated on other grounds by *Sally v. Option One Mortgage Corp.*, 925 A.2d 115, 129 (Pa. 2007). Title 42 Pa.C.S.A. § 7303 reflects that proposition.

Plaintiffs argue that there are eight persons (decedent's children) who have independent personal claims against the defendants for the wrongful death of Ms. Vaughn. They are listed at page six of the Plaintiffs' Brief filed July 8, 2009. Plaintiffs assert that because decedent's children are not parties to the contract, they have no obligation to arbitrate. Plaintiffs further assert that because the children have separate claims under the Wrongful Death statute, and because a wrongful death action and survival action must be consolidated for trial [Pa.R.Civ.P. 213(e)], the matters cannot be bifurcated and submitted for arbitration. See, *Graziosi v. Altoona Center For Nursing Care, LLC*, Blair County No. 2006 GN 4189 (December 20, 2006, Sullivan, J.). Plaintiffs also argue that as a matter of judicial economy, severing the claims would "engender

enormous costs and expenses to the plaintiffs, which would impair their ability to proceed further". See Plaintiffs' Brief at 9. See, *Central Contracting Co. v. C.E. Youngdahl & Co.*, 209 A.2d 810, 816 (Pa. 1965). Plaintiffs note that Defendant Lesseski is not a party to the agreement and, therefore, claims against him, as well as PIFM, could not be arbitrated.

Plaintiffs also argue that the Arbitration Agreement is voidable because it is the product of a confidential relationship. Because such a contract is presumptively voidable, the matter cannot be submitted for arbitration. See, *Frowen v. Blank*, 425 A.2d 412, 416 (Pa. 1981).³

First, the only parties to the admission agreement were Christine Vaughn and the defendants, Fairview and HCF. Second, it does appear that certain claims related to her care could be raised after her death if asserted during the applicable statute of limitations. See, <u>Arbitration Code of Procedure</u>, Rule 10 at 11. (Plaintiffs' Brief, Exhibit "3"). Third, Christine Vaughn's children have separate causes of action under the Wrongful Death Act, 42 Pa.C.S.A. § 8301(b). Fourth, although the law favors the arbitration of disputes, it would be a waste of resources to bifurcate the survival claim (which may be subject to the arbitration agreement) from the wrongful death claim. Cf. Pa.R.Civ.P. 213(e). There will be two proceedings involving the same facts and possibly some of the same defenses. This will not only increase expenses, but it will unnecessarily protract resolution of the issues. Therefore, the actions should be consolidated for disposition and this lawsuit is the appropriate procedural vehicle to accomplish that end.

Defendants Fairview Manor and HCF's Motion To Strike Certain Paragraphs contained in Count 1 of the Complaint because they are vague, overbroad and/or contain scandalous or impertinent material.

Defendants are correct when they assert that, "[e]ven our present liberalized system of pleadings requires that the material facts upon which a cause of action is premised must be plead with sufficient specificity so as to set forth the *prima facie* elements of the tort or torts alleged." See, *Feingold v. Hill*, 521 A.2d 33, 38 (Pa. Super. 1987), alloc. denied, 533 A.2d 714 (1989). Furthermore, statements are not scandalous or impertinent unless they are immaterial and inappropriate to the proof involved in the case, totally irrelevant and lacking any influence on the result. See, *Department of Environmental Resources v. Peggs Run Coal Company*, 423 A.2d 765, 769 (Pa. Cmwlth. 1980).

After its review of the complaint, this Court finds no need to grant the defendants' request.

³ The Court disagrees with this proposition.

Whether the Statute of Limitations Bars Some of Plaintiffs' Claims?

Defendants allege that many of the alleged events of negligence occurred beyond the two-year statute of limitations. However, this issue is not appropriate for disposition by way of preliminary objections. See, Pa.R.Civ.P. 1028, 1030; *Farinacci v. Beaver County Industrial Development Authority*, 511 A.2d 757 (Pa. 1986); *Devine v. Hutt*, 863 A.2d 1160, 1166 - 67 (Pa. Super. 2004),

Whether the Plaintiffs Can Advance A Negligence Per Se Claim?

Plaintiffs allege a cause of action based upon negligence *per se* asserting that the defendants violated 18 Pa.C.S.A. § 2713. See, Note 2, *supra*. If the plaintiffs can demonstrate that a violation of a statute or regulation that is clearly applicable to the conduct of a defendant is a proximate cause of a plaintiff's injury, it can establish negligence *per se*. See, *Wagner v. Anzon, Inc.*, 684 A.2d 570 (Pa. Super, 1996).

It has been noted that: "the concept of negligence *per se* establishes both duty and the required breach of duty where an individual violates an applicable statute, ordinance or regulation designed to prevent a public harm..." *Braxton v. PennDOT*, 634 A.2d 1150, 1157 (Pa. Cmwlth. 1993). The purpose for the statute upon which the claim is based must be to protect the interest of a group of individuals, as opposed to the public, and the statute must clearly apply to the conduct of the defendant. There must be a direct connection between the harm sought to be prevented by the statute and the injury. See, *Wagner v. Anzon, Inc.*, 684 A.2d 570, 574 (Pa. 1996). It is the plaintiffs' burden to establish that the purpose of the particular statute is to protect the interest of a group of individuals, as opposed to the general public, and whether the statute clearly applies to the conduct of the defendant. See, *Cabiroy v, Scipione*, 767 A.2d 1078, 1081 (Pa. Super. 2001) (citation omitted).

Title 18 Pa.C.S.A. § 2713 does not provide a private cause of action to a nursing home patient. Nevertheless, the purpose of this penal statute is to protect a group of individuals, i.e., care-dependent persons. Therefore, the act may be furthered by plaintiffs' claim.

The parties are reminded that we are at the pleading stage and the Court's focus is quite different than it would be at the summary judgment phase. Analyzing ¶¶ 30 - 34, 98 - 102, 160 - 162, 165 - 168, 172 - 173, 181 and 183 - 186 in light of the preliminary objection standard, this Court finds that there is no basis upon which to strike them.

Whether the Plaintiffs Can Advance A Corporate Liability Negligence Claim?

The Defendants have moved to strike allegations of corporate liability/negligence. They argue that the causes of action for corporate

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liability and vicarious liability are separate and should be addressed in separate counts. They further assert that a corporate negligence claim against a nursing home is not recognized by the Pennsylvania appellate courts and that such a claim can only be asserted against a hospital. In support of their position, they cite *Thompson v. Nason Hospital*, 591 A.2d 703 (Pa. 1991) and *Shannon v. McNulty*, 718 A.2d 828 (Pa. Super. 1998).

The genesis of the corporate liability doctrine is summarized in the following passage:

Hospitals in the past enjoyed absolute immunity from tort liability. (citation omitted) The basis of that immunity was the perception that hospitals function as charitable organizations. (citation omitted) However, hospitals have evolved into highly sophisticated corporations operating primarily on a fee-forservice basis. The corporate hospital of today has assumed the role of a comprehensive health center with responsibility of arranging and coordinating the total health care of its patients.⁴ (footnote omitted) As a result of this metamorphosis, hospital immunity was eliminated. (citation omitted).

Thompson v. Nason Hospital, 591 A.2d at 706.

The elements of this cause of action are: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients. *Id.* at 707. The doctrine was expanded to cover health maintenance organizations. *Shannon v. McNulty*, 718 A.2d at 835.

No Pennsylvania appellate court has extended this cause of action to nursing homes. However, some courts of common pleas have allowed the cause of action to be pleaded, leaving ultimate resolution of the issue to the summary judgment stage of the case. See, *Capriotti v. Beverly Enterprises Pennsylvania Inc.*, 72 Pa. D.&C. 4th 564, 572 (Fayette County, 2004) and *Frantz v. HCR Manor Care Inc.*, 64 Pa. D.&C. 4th 457 (Schuylkill County, 2003).

This Court concludes that the corporate negligence doctrine may be applicable in some situations where there is a comprehensive control by the nursing home over the resident's medical treatment and care. It is particularly significant in this case that when Christine Vaughn entered Fairview Manor, she not only engaged it to provide nursing care, but she also selected its medical director to be her primary physician. In effect, her entire care was provided by or through Fairview Manor. Given the pervasive nature of Fairview Manor's control over her care, the Court 264

finds that, for preliminary objection purposes, the plaintiffs' claim of corporate negligence can stand.

The doctrine of vicarious liability is a separate concept. A nursing home, like other entities, can be vicariously liable under certain circumstances based upon the negligence of its agents and employees which may be imputed to it, given the proper evidentiary foundation. The fact that the specific employees, agents, etc. have not been specifically named at this stage in the proceedings is not fatal to plaintiffs' pleadings; although it may eventually support a defense request for summary judgment. The defendants can obtain this information through the discovery process. Therefore, the vicarious liability claims against Defendants Fairview Manor and HCF can stand.

The Court agrees with the defendants' argument that they had no duty to notify each and every family member of Christine Vaughn's physical condition. However, they did have a duty to apprize the deceased or her guardian, power of attorney or contact person of her health status as part of their overall duty to provide care for her. That duty was owed to Christine Vaughn and is relevant to the survival claim. Therefore, read in that context, the complaint is not defective.

As to the defendants' separate punitive damages argument, this Court notes that plaintiffs must allege facts that, if proven, would establish a claim for punitive damages. Punitive damages are recoverable in those instances where a defendant's conduct is outrageous due to either "the defendant's evil motive or reckless indifference to the rights of others". *Phillips v. Cricket Lighters*, 883 A.2d 439, 445 (Pa, 2005). Punitive damages should not be awarded for mere inadvertence, mistake, errors of judgment, and the like, which constitute ordinary negligence. See, Restatement (Second) of Tort § 908, Comment (b). The essence of punitive damages is not compensation, but punishment and deterrence.

After its review, this Court finds that ¶¶ 197 - 209 of the complaint sufficiently plead a claim for punitive damages based upon the allegations of reckless indifference.

Defendants Fairview Manor and HCF's Motion For Sanctions

As noted above, the Motion For Sanctions is related to two issues: (1) defendants' claim that this entire controversy is subject to an arbitration agreement; and (2) that the plaintiffs have improperly alleged a negligence *per se* theory predicated upon 18 Pa.C.S.A. 2713.

The Court incorporates the rationale set forth above and finds that the defendants have failed to establish a claim for sanctions.

III. CONCLUSION

Based upon the above, this Court will issue the appropriate order. To the extent the Court has not addressed a specific ground for relief asserted by defendants, it concludes that it was not necessary to do so in light of its findings set forth in this opinion.

ORDER

AND NOW, this 6th day of October 2009, for the reasons set forth in the accompanying opinion, it is hereby ORDERED that the Defendants Fairview Manor and HCF of Fairview Inc.'s Preliminary Objections are OVERRULED and their Motion For Sanctions is DENIED. As to Defendants' (David C. Lesseski, D.O. and Presque Isle Family Medicine, Inc.) Preliminary Objections, Complaint Paragraph 192 vv is hereby STRICKEN. In all other respects, their preliminary objections are OVERRULED.

All defendants shall have thirty (30) days from the date of this order to answer the complaint.

BY THE COURT: /s/ ERNEST J. DISANTIS, JR., JUDGE

FICTITIOUS NAME NOTICE

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business Under an Assumed of Fictitious Name." Said Certificate contains the following information:

FICTITIOUS NAME NOTICE

1. Fictitious Name: Walnut Creek Auto Sales

2. Address and principal place of business, including street and number: 6345 West Ridge Road, Erie, PA 16506.

3. The real name of the entity registering this name: Bryan A. Barnes, 280 Honey Brook Circle, Girard, PA 16417.

4. An application for registration of the fictitious name was filed with the Department of State under the Fictitious Names Act on or about October 16, 2009.

Angelo P. Arduini, Esquire 731 French Street Erie, PA 16501

Nov 6

INCORPORATION NOTICE

Notice is hereby given that The Christian Cupboard has been incorporated under the provisions of the Nonprofit Corporation Law of 1988, as amended. James R. Steadman, Esquire 24 Main Street East P.O. Box 87 Girard, PA 16417

Nov. 6

INCORPORATION NOTICE

Notice is hereby given that Double A's, Inc. has been incorporated under the provisions of the Business Corporation Law of 1988, as amended. James R. Steadman, Esquire 24 Main Street East P.O. Box 87 Girard, PA 16417 Nov. 6

INCORPORATION NOTICE

Notice is hereby given that Articles of Incorporation have been filed in the Pennsylvania Department of State for Western PA Area Police, Inc., which has been incorporated under the Business Corporation Law of 1988. Kurt L. Sundberg Marsh Spaeder Baur Spaeder & Schaaf, LLP 300 State Street, Suite 300 Erie, PA 16507

Nov. 6

LEGAL NOTICE

ATTENTION: JOHN WILLIAM DURST II INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD (J.S.D.); DOB: 07-28-99 #103 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, laving 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 I, City of Erie on November 19, 2009, at 1:30 p.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

Nov. 6

LEGAL NOTICE

ATTENTION: MICHAELGRIFFITHS AKA OCTAVIUS JONES INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE ADOPTION OF MINOR

CHILD (J.J.N.); DOB: 11-21-07 #21E IN ADOPTION, 2009

If you could be the parent of the above mentioned child, at the instance of Erie County Office of Child and Youth you, laving 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 Cunningham, Court Room No. C, City of Erie on November 20, 2009, at 9:30 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 Child and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Child and Youth at (814) 451-6647.

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

Nov. 6

LEGAL NOTICE ATTENTION: COLLEENA MITCHELL INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILDREN (R.R.M.); DOB: 10/23/08 AND (K.C.T.); 06/22/98 #93 AND 100 IN ADOPTION 2009

#93 AND 100 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 John Bozza, Court Room No. I. City of Erie on November 19. 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

COMMON PLEAS COURT

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

Nov. 6

LEGAL NOTICE ATTENTION: CRYSTAL SHAW INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR FEMALE CHILD (M.L.S.); DOB: 12/26/08 #85 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, laving 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 Cunningham, Court Room No. C, City of Erie on January 5, 2010, at 9:15 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

Nov. 6

LEGAL NOTICE

ATTENTION: NICHOLAS A. TAYLOR

INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE ADOPTION OF MINOR FEMALE CHILD (I.Z.M.) DOB: 05-27-08 #84A 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 Cunningham, Court Room No. C, City of Erie on December 9, 2009, at 9:30 a.m. and then and there show cause, if any you have, why vour 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

Nov. 6

LEGAL NOTICE ATTENTION: UNKNOWN BIOLOGICAL FATHER INVOLUNTARY TERMINATION OF PARENTAL RIGHTS

IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD (I.R.O.) DOB: 09-21-08 BORN TO: STEPHANIE OLSEN #25 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 Cunningham, Court Room No. C. City of Erie on January 5. 2010, at 9:15 a.m. and then and there show cause, if any you have, why vour 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

Nov. 6

LEGAL NOTICE

ATTENTION · UNKNOWN BIOLOGICAL FATHER INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR FEMALE CHILD (V.R.R.); DOB: 11-29-06 BORN TO: STACEY MIGLIACCIO #108 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 I. City of Erie on December 2, 2009, at 9:30 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

Nov. 6

SHERIFF SALES

Notice is hereby given that by virtue of sundry Writs of Execution, issued out of the Courts of Common Pleas of Erie County, Pennsylvania, and to me directed, the following described property will be sold at the Erie County Courthouse, Erie, Pennsylvania on

November 20, 2009 at 10:00 AM

All parties in interest and claimants are further notified that a schedule of distribution will be on file in the Sheriff's Office no later than 30 days after the date of sale of any property sold hereunder, and distribution of the proceeds made 10 days after said filing, unless exceptions are filed with the Sheriff's Office prior thereto.

All bidders are notified prior to bidding that they **MUST** possess a cashier's or certified check in the amount of their highest bid or have a letter from their lending institution guaranteeing that funds in the amount of the bid are immediately available. If the money is not paid immediately after the property is struck off, it will be put up again and sold, and the purchaser held responsible for any loss, and in no case will a deed be delivered until money is paid.

Bob Merski

Sheriff of Erie County

Oct. 30, and Nov. 6, 13

SALE NO. 1 Ex. #10374 of 2009 MARQUETTE SAVINGS BANK, Plaintiff, V.

BARRY L. McCRACKEN and KIMBERLEE M. McCRACKEN, Defendants SHERIFF'S SALE

By virtue of a Writ of Execution filed at No. 10374-09 Marquette Savings Bank vs. Barry L. McCracken and Kimberlee M. McCracken, owner(s) of property situate in Erie, Erie County, Pennsylvania being: 77' x 125.8'

Assessment Map Number: (33) 17-79-3

Assessed Value Figure: \$ 133,140.00 Improvement Thereon: Dwelling house and lot Will J. Schaaf, Esq. Marsh Spaeder Baur Spaeder & Schaaf, LLP Suite 300, 300 State Street Erie, Pennsylvania 16507 (814) 456-5301 Oct. 30, and Nov. 6, 13

SALE NO 2 Ex. #13055 of 2009 MARQUETTE SAVINGS BANK, Plaintiff, V.

v. MARK A. MOORE and SANDIE L. MOORE, Defendants

SHERIFF'S SALE By virtue of a Writ of Execution filed at No. 13055-09 Marquette Savings Bank vs. Mark A. Moore and Sandie L. Moore, owners of property situate in Erie. Erie County, Pennsylvania being: 140' x 100' Approx. .3200 Acres Assessed Value Figure \$69,780.00 Improvement Thereon: Dwelling house and lot Donald F. Fessler, Jr., Esq. Marsh Spaeder Baur Spaeder & Schaaf LLP Suite 300, 300 State Street Erie, Pennsylvania 16507 (814) 456-5301

Oct. 30, and Nov. 6, 13

SALE NO. 3 Ex. #11846 of 2009 Deutsche Bank National Trust Company, as Trustee for Meritage Mortgage Loan Trust 2005-2, Plaintiff

v. Krista Baker, Defendant(s) LEGAL DESCRIPTION

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 onefamily frame dwelling commonly known and municipally numbered as 723 East 23rd Street, Erie, Pennsylvania 16503 and bearing Erie County Tax ID No. (18) 5030-110.

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.

Udren Law Offices, P.C. Attorneys for Plaintiff Woodcrest Corporate Center 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 (856) 669-5400

Oct. 30, and Nov. 6, 13

SALE NO. 5 Ex. #14041 of 2008 National City Mortgage Co. dba Accubanc Mortgage, Plaintiff

v. Robert H. Schiefelbein, Defendant(s) LEGAL DESCRIPTION

ALL that certain piece or parcel of land situate in Lawrence Park Realty Company Plot of portions of Tracts No. 246 and 247 in Lawrence Park Township, Erie County, Pennsylvania as recorded in Erie County Map Book No. 3, Page 39, 40 and 41, subject to the terms and conditions therein and herein mentioned, and being a part of Lot 1, Block 173, more particularly described as follows, to-wit: BEGINNING at a point in the southerly line of Main Street 55.845 feet westwardly from the westerly line of Priestley Avenue;

THENCE, southwardly parallel with the westerly line of Priestley Avenue, 100 feet to the northerly line of a 16 foot alley;

THENCE, westwardly along the northerly line of said 16 foot alley, 19.43 feet to a point;

THENCE, northwardly parallel with the westerly line of Priestley Avenue, 100 feet to the southerly line of Main Street;

THENCE, eastwardly along the southerly line of Main Street 19.43 feet to the point of beginning, being known as 3819 Main Street, and bearing Erie County Tax Index No. (29) 18-55-8.

BEING the same premises conveyed to Donald Paul Blair, Party of the First Part herein, by an undivided one-third interest awarded him by Decree of Distribution of the Orphans' Court of Erie County, Pennsylvania entered in the Estate of Mary W. Wright, deceased, an excerpt of which is recorded in Erie County Deed Book 1055. Page 265, an undivided one-third interest by deed from Maynard Batts, an unremarried widower, dated September 18, 1993 and recorded October 1, 1993 in Erie County Record Book 295, at Page 87, et seq., and an undivided one-third interest by deed from Donald P. Blair, Executor of the Estate of Frances W. Blair, deceased, dated May 16, 1997 and recorded May 22, 1997 in Erie County Record Book 499, at Page 1448, et seq., thereby constituting the entire interest in said property.

THE division lines between the property hereby conveyed and the properties located immediately east and west thereof pass through the center of the walls between the apartment located on the property hereby conveyed, known as 3819 Main Street, and the apartments located on the lots immediately east and west thereof, known as 3821 and 3817 Main Street, which walls are to be considered as party

walls; and said grantee, his heirs and assigns, shall have no right to remove or interfere with said walls. except by and with the consent of the adjoining party wall property owner or owners. SUBJECT to all valid and subsisting conditions, covenants, restrictions, reservations, exceptions, setbacks, rights-of-way and easements of record and/or those that are visible to a physical inspection and all laws, regulations, and restrictions, including building and zoning ordinances, of municipal and other governmental authorities applicable to and enforceable against the above-described property. BEING KNOWN AS: 3819 MAIN STREET (LAWRENCE PARK TOWNSHIP) ERIE, PA 16511 PROPERTY ID NO.: 29/18-55-8 TITLE TO SAID PREMISES IS VESTED IN Robert H. Schiefelbein, single by deed from Donald Paul Blair, single dated 7/17/03 recorded 7/23/03 in Deed Book 1039 Page 1389. Udren Law Offices. P.C. Attorneys for Plaintiff Woodcrest Corporate Center 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 (856) 669-5400

Oct. 30, and Nov. 6, 13

SALE NO. 7 Ex. #12963 of 2009 ERIE COMMUNITY CREDIT UNION, Plaintiff

REBECCA MALINSKI, Defendants SHORT DESCRIPTION

ALL that certain piece or parcel of land situate in City of Erie, County of Erie, and Commonwealth of Pennsylvania, bearing Erie County Tax ID No. (18) 5077-126, having erected thereon a two-story dwelling with a one car attached garage commonly known as 460 East 28th Street, Erie, Pennsylvania 16504. David E. Holland Pa. Supreme Court ID No. 23793

MacDonald, Illig, Jones & Britton LLP

100 State Street, Suite 700

Erie, Pennsylvania 16507-1459 (814) 870-7755 Attorneys for Plaintiff Oct. 30, and Nov. 6, 13

SALE NO. 8 Ex. #12806 of 2009 Northwest Savings Bank y.

Terrall D. Anderson and Julie D. Anderson <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed at No. 12806-2009. Northwest Savings Bank vs. Terrall D. Anderson and Julie D. Anderson, owners of property situate in the Second Ward of the City of Corry, Erie County, Pennsylvania being: 116 East Congress Street, Corry, Pennsylvania. 50' x 92.3' x 50' x 92.3' Assessment Map Number: (6) 21-26-4 Assessed Value Figure: \$53,380.00 Improvement Thereon: Residence Kurt L. Sundberg, Esq. Marsh Spaeder Baur Spaeder & Schaaf, LLP Suite 300, 300 State Street Erie, Pennsylvania 16507 (814) 456-5301 Oct. 30, and Nov. 6, 13

SALE NO. 9 Ex. #12600 of 2009 ABRAHAM SILVER, ASSIGNEE OF THE FIRST NATIONAL BANK OF PENNSYLVANIA, Plaintiff,

MAX SILVER & SONS, A PENNSYLVANIA PARTNERSHIP, Defendant ADVERTISING DESCRIPTION

v.

By virtue of Writ of Execution filed at No. 12600-2009, Abraham Silver, Assignee of The First National Bank of Pennsylvania vs. Max Silver & Sons, a Pennsylvania Partnership, owner of the following properties identified below located on Myrtle Street in the City of Erie: 1) Situate in the City of Erie, County of Erie, and Commonwealth of Pennsylvania described as follows: Assessment Map Nos.: (16)3017-202 and (16)3012-120 Assessed Value Figure:

(16)3017-202 is assessed at \$49,700.00; (16)3012-120 is assessed at \$134,200,00 ImprovementThereon: (16)3017-202: Commercial Warehouse (16)3012-120: Commercial Building Lawrence C. Bolla, Esquire Pa. I.D. No. 19679 The Ouinn Law Firm 2222 West Grandview Boulevard Erie. PA 16506 (814) 833-2222 Oct. 30, and Nov. 6, 13

SALE NO. 10 Ex. #11308 of 2009 National City Bank

Nancy Anne Casey Maring a/k/a Nancy Anne Maring, Executrix of the Estate of Bridget J. Sybrandt SHERIFF'S SALE

v.

By virtue of a Writ of Execution filed to No. 11308-09, National City Bank vs. Nancy Anne Casey Maring a/k/a Nancy Anne Maring, Executrix of the Estate of Bridget J. Sybrandt Bridget J. Sybrandt, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 302 West 21st Street 41' 3" x 130' Assessment Map number: 19-6010-200 Assessed Value figure: \$61,680.00 Improvement thereon: single family dwelling Patrick Thomas Woodman, Esq. 436 Seventh Ave. 1400 Koppers Bldg. Pittsburgh, PA 15219 (412) 434-7955

Oct. 30, and Nov. 6, 13

SALE NO. 11 Ex. #12476 of 2009 J.P. Morgan Chase Bank, N.A.

v. Thomas D. O'Sullivan <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 12476-09, J.P. Morgan Chase Bank, N.A. vs. Thomas D. O'Sullivan, owner(s) of property situated in Borough of Wesleyville, Erie County, Pennsylvania being 1808 Eastern Avenue, Wesleyville, PA 16510 ERIE COUNTY LEGAL JOURNAL LEGAL NOTICE

37' x 120' Assessment Map number: (50) 1-8-6

Improvement thereon: one-story dwelling house Patrick Thomas Woodman, Esq. 436 Seventh Ave. 1400 Koppers Bldg. Pittsburgh, PA 15219 (412) 434-7955 Oct. 30, and Nov. 6, 13

SALE NO. 12 Ex. #31047 of 2009 FIRST NATIONAL BANK OF PENNSYLVANIA, Plaintiff v.

SUTTON ENTERPRISES, LTD., Defendants SHORT DESCRIPTION

ALL THAT CERTAIN piece or parcel of land situate in the Township of Summit, Erie County, Pennsylvania, containing approximately 0.912 acres of land, commonly known as 6611 Peach Street, Erie, Pennsylvania 16509, formerly operated as Bruster's Ice Cream and bearing Erie County Tax Index No. (40) 5-19-112. Susan Fuhrer Reiter Supreme Court ID No. 43581 MacDonald, Illig, Jones & Britton LLP 100 State Street, Suite 700 Erie, Pennsylvania 16507-1459 (814) 870-7760 Attorneys for Plaintiff Oct. 30, and Nov. 6, 13

SALE NO. 14 Ex. #12390 of 2009 BANK OF AMERICA, N.A., Plaintiff, V.

TERRY J. CARROLL, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12390-09 Bank of America, N.A. vs. Terry J. Carroll Terry J. Carroll, owner(s) of property situated in Albion Borough, Erie County, Pennsylvania being 220-226 SOUTH MAIN STREET, ALBION, PA 16401-1331. Acreage: 1.6200 and 47.4220 Assessment Map number: 04-018-050.0-031.00 and COMMON PLEAS COURT

01-007-035.0-024.00 Assessed Value: \$17,200.00 and \$96,790.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 15 Ex. #13581 of 2008 BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS, CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-7, Plaintiff, v. KEITH T. CAUGHEY STACY CAUGHEY A/K/A STACY L. CAUGHEY, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 13581-08

Bank of New York as Trustee for the Certificateholders, CWABS, Inc., Asset-Backed Certificates, Series 2004-7 v. Keith T. Caughey and Stacy Caughey a/k/a Stacy L. Caughey

Amount Due: \$178,896.11

Keith T. Caughey and Stacy Caughey a/k/a Stacy L. Caughey, Owner(s) of property situated in Erie County, Pennsylvania being 4416 AMHERST ROAD, ERIE, PA 16506-4335.

Dimensions: 72 x 138.83 IRR

Acreage: 0.2298

Assessment Map number: 33095414004252

Assessed Value: \$112,330.00

Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP

Attorney for Plaintiff

One Penn Center at Suburban

Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 16 Ex. #11353 of 2008 GMAC MORTGAGE, LLC, Plaintiff, v. CHARLES L. DUNLAP PEARL DUNLAP, Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 11353-08 GMAC Mortgage, LLC VS. Charles L. Dunlap and Pearl Dunlap Amount Due: \$110,436.21 Charles L. Dunlap and Pearl Dunlap, owner(s) of property situated in Borough of Albion, Erie County, Pennsylvania being 88 AND 94 WEST STATE STREET, ALBION, PA 16401. Assessment Map number: 01-005-047.0-001.00 (94 West State Street, Albion, PA 16401) Dimensions: 115.5 X 130 Acreage: 0.3447 Assessed Value: \$96,260.00 Assessment Map number: 01-005-047.0-002.00 (88 West State Street, Albion, PA 16401) Dimensions: 132 x 148 Acreage: 0.4485 Assessed Value: \$38,400.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 17 Ex. #13649 of 2008 THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWABS, INC. ASSET-BACKED CERTIFICATES, SERIES 2002-BC3, Plaintiff,

MICHAEL E. DVORAK, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13649-2008 The Bank of New York as Trustee for the Certificateholders CWABS, Inc. Asset-Backed Certificates, Series 2002-BC3 vs. Michael E. Michael E. Dvorak. Owner(s) of

property situated in Millcreek

Pennsylvania being 1115 HARTT

Erie

Map

Improvement thereon: Residential

Phelan, Hallinan & Schmieg, LLP

1617 John F. Kennedy Boulevard

SALE NO. 18

PHH MORTGAGE

CORPORATION, Plaintiff,

v.

CHESTER R. EATON A/K/A

CHESTER EATON.

Defendant(s)

SHERIFF'S SALE

By virtue of a Writ of Execution

PHH Mortgage Corporation vs.

Chester R. Eaton a/k/a Chester

Chester R. Eaton a/k/a Chester

Eaton, owner(s) of property situated

in Township of Millcreek. Erie

County, Pennsylvania being 5229 RICHMOND STREET, ERIE, PA

Map

filed to No. 2009-12712

Eaton

16509-1831

Assessment

Acreage: 0.1515

Dimensions: 40 X 165

33-120-537.0-009.00

Assessed Value: 66.030.00

Improvement thereon: residential

Oct. 30, and Nov. 6, 13

One Penn Center at Suburban

Philadelphia, PA 19103-1814

County.

number[.]

Amount Due: \$111,471.27

ROAD, ERIE, PA 16505.

Dimensions: 60 X 145

33-026-095.0-009.00

Attorney for Plaintiff

Station. Suite 1400

(215) 563-7000

Ex. #12712 of 2009

Assessed Value: 87,480.00

Acreage: 0.1997

Assessment

Dvorak

Township.

SALE NO. 19

Ex. 12116 of 2009 THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CSWABS 2005-6, Plaintiff,

v. MARK EMLING, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12116-09 The Bank of New York Mellon

fka The Bank of New York as Trustee for the Certificateholders of CSWABS 2005-6 vs. Mark Emling Amount Due: \$49,060.32 Mark Emling, Owner(s) of property situated in Third Ward of the City of Erie, Erie County, Pennsylvania being 1426 POPLAR STREET. ERIE, PA 16502-1615. Dimensions: 41.58 X 165 Acreage: 0.1549 Assessment Map number: 16030037010600 Assessed Value: \$18,160.00 Improvement thereon: Residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 20

Ex. #15712 of 2008 WELLS FARGO BANK, NA, Plaintiff,

v. KELLY JO FERL A/K/A KELLY J. FERL, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 15712-08 Wells Fargo Bank, NA vs. Kelly Jo Ferl a/k/a Kelly J. Ferl Amount Due: \$67.143.41 Kelly Jo Ferl a/k/a Kelly J. Ferl, Owner(s) of property situated in Borough of Albion. Erie County. Pennsylvania being 19 CLIFF STREET. ALBION. PA 16401-1005 Dimensions: 50 x 150 Acreage: 0.1722 Assessment Map number:

Daniel G. Schmieg, Esquire Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

number:

01-005.045.0-019.00 Assessed Value: \$58,670.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 21 Ex. #13249 of 2007 BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWABS, INC. ASSET- BACKED CERTIFICATES, SERIES 2006-18, Plaintiff,

v. WILFREDO COLON FIGUEROA, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13249-07 Bank of New York as Trustee for the Certificateholders CWABS. Inc. Asset-Backed Certificates. Series 2006-18 vs. Wilfredo Colon Figueroa Amount Due: \$91,991.63 Wilfredo Colon Figueroa, owner(s) of property situated in the 5TH WARD OF THE CITY OF ERIE, Erie County, Pennsylvania being 1346 EAST 32ND STREET, ERIE, PA 16504-1904. Dimensions: 72.37 X 130.25. 37 X 130.50, 37 X 130.25 Acreage: 0.2164, 0.1106, 0.1106 Assessment Map number[.] 18051010020000, 18051010022400, 18051010022500 Assessed Value: 50.370.00. 1.500.00. 1.500.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

ERIE COUNTY LEGAL JOURNAL LEGAL NOTICE

SALE NO. 22 Ex. #12684 of 2009 DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR MORGAN STANLEY ABS CAPITAL I INC. TRUST 2006-HE4, Plaintiff, v.

BILLY M. GARNER THERESA G. GARNER, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12684-09 Deutsche Bank National Trust Company, as Trustee for Morgan Stanley ABS Capital I Inc. Trust 2006-HE4 vs. Billy M. Garner and Theresa G. Garner Amount Due: \$103.516.10 Billy M. Garner and Theresa G. Garner, owner(s) of property situated in Township of Millcreek, Erie County, Pennsylvania being 2815 BROADLAWN DRIVE ERIE, PA 16506-1809. Dimensions: 80 X 130 Acreage: 0.2388 Assessment Map number: 33-055-246 0-002 00 Assessed Value: 92.040.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 23 Ex. #12442 of 2009 NORTHWEST SAVINGS BANK, Plaintiff,

STEVEN J. GUIANEN A/K/A STEVEN J. GULANEN KARI M. CASHORE A/K/A KARI GUIANEN A/K/A KARI GULANEN A/K/A KARRIE GUIANEN, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12442-09 Northwest Savings Bank vs. Steven J. Guianen a/k/a Steven J. Gulanen and Kari M. Cashore a/k/a

COMMON PLEAS COURT

Kari Guianen a/k/a Kari Gulanen a/k/a Karrie Guianen Amount Due: \$169.649.71 Steven J. Guianen a/k/a Steven J. Gulanen and Kari M. Cashore a/k/a Kari Guianen a/k/a Kari Gulanen a/k/a Karrie Guianen, owner(s) of property situated in Albion Borough Erie County, Pennsylvania being 74 MARKET STREET, ALBION, PA 16401 Dimensions: 66 x 168.45 Acreage: 0.2552 Assessment number: Map 01001012000500 Assessed Value: \$92,500.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13 SALE NO. 24

SALE NO. 24 Ex. #14638 of 2008 CITIMORTGAGE, INC., Plaintiff,

ARTHUR L. HALL CAPRICE A. HALL CORDELE MILES, III, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 14638-08 Citimortgage, Inc. vs. Arthur L. Hall and Caprice A. Hall and Cordele Miles. III Amount Due: \$35,920.37 Arthur L. Hall and Caprice A. Hall and Cordele Miles, III, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 708 EAST 21ST STREET, ERIE, PA 16503-2205. Dimensions: 35 x 135 Acreage: 0.1085 Assessment Map number: 18-050-029.0-203.00 Assessed Value: \$29,210.00 Improvement thereon: Residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard

Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13 SALE NO. 25 Ex. #12685 of 2009 AURORA LOAN SERVICES LLC, Plaintiff, v. KATHRYN HARPER ANTHONY HARPER. Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 12685-09 Aurora Loan Services LLC vs. Kathryn Harper and Anthony Harper Amount Due: \$88,589.24 Kathryn Harper and Anthony Harper, owner(s) of property situated in City of Erie. Erie County. Pennsylvania being 1128 WEST 28TH STREET, ERIE, PA 16508-1530 Dimensions: 40 X 135 Acreage: 0.1240 Assessment number: Map 19-062-018.0-231.00 Assessed Value: 75,500.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 26 Ex. #13853 of 2008 WELLS FARGO BANK, N.A., Plaintiff,

CHAD KLIMOW JESSICA BARBARA KLIMOW A/K/A JESSICA B. KLIMOW, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 13853-08 Wells Fargo Bank, N.A. vs. Chad Klimow and Jessica Barbara Klimow a/k/a Jessica B. Klimow Amount Due: \$139,306.00 Chad Klimow and Jessica Barbara Klimow a/k/a Jessica B. Klimow, owner(s) of property situated

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in Borough of Girard, Erie County, Pennsylvania being 1102 LAWRENCE COURT. GIRARD. PA 16417 Dimensions: 70 x 240.24 Acreage: 0.3849 Assessment Map number: 23-003-016 0-001 18 Assessed Value: 120.270.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 27

Ex. 14415 of 2008 FLAGSTAR BANK, FSB, Plaintiff. v. MICHAEL J. KOHLMILLER MARY ANN KOHLMILLER A/K/A MARY A. KOHLMILLER. Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 14415-08 Flagstar Bank, FSB vs. Michael J. Kohlmiller and Mary Ann Kohlmiller a/k/a Mary Α. Kohlmiller Amount Due: \$118.217.57 Kohlmiller Michael J. and Mary Ann Kohlmiller a/k/a Mary A. Kohlmiller, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 4305 WAYNE STREET, ERIE, PA 16504-2240. Dimensions: 65 x 105 Acreage: 0.1567 Assessment Map number: (18)5372-906 Assessed Value: \$83,530.00 Improvement thereon: Residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 29 Ex. #11848 of 2009 BAC HOME LOANS SERVICING, L.P., F/K/A **COUNTRYWIDE HOME** LOANS SERVICING, L.P., Plaintiff. v. CHARLES F. MORGAN SANDRA L. MORGAN. Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 11848-09 BAC Home Loans Servicing, L.P., f/k/a Countrywide Home Loans Servicing, L.P. vs. Charles F. Morgan and Sandra L. Morgan Charles F. Morgan and Sandra L. Morgan, owner(s) of property situated in Township of Harborcreek, Erie County, Pennsylvania being 3742 HARBOR RIDGE TRAIL. ERIE, PA 16510-5956. Dimensions: 55.01 ft. x 110 ft. x 62.56 ft x 110 ft Acreage: 0.15 acres Assessment Map number: 27-081-211.0-107.00 Assessed Value: 154,700.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 30 Ex. #12843 of 2009 US BANK NATIONAL ASSOCIATION, F/K/A FIRST UNION NATIONAL BANK, AS TRUSTEE FOR ACE SECURITIES HOME EQUITY LOAN TRUST 2001- HE1, Plaint, v

JEFFREY A. POHL LISA M. POHL, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 12843-09 US Bank National Association, f/k/a First Union National Bank, as Trustee for ACE Securities Home Equity Loan Trust 2001-HE1 vs.

Jeffrey A. Pohl and Lisa M. Pohl Amount Due: \$57,275.57 Jeffrev A. Pohl and Lisa M. Pohl. owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 32 EAGLE POINT BOULEVARD, ERIE, PA 16511-1146 Dimensions: 40 X 165 Acreage: 0.1515 Assessment Map number[.] 14-011-024.0-112.00 Assessed Value: \$49,830.00 Improvement thereon: Residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 31 Ex. #12575 of 2009 WELLS FARGO BANK, N.A., S/B/M WELLS FARGO HOME MORTGAGE, INC., Plaintiff, V.

EDGAR ALAN RODGERS, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 12575-09 Wells Fargo Bank, N.A., s/b/m Wells Fargo Home Mortgage, Inc. vs. Edgar Alan Rodgers Edgar Alan Rodgers, owner(s) of property situated in Erie County, Pennsylvania being 5850 CARRIAGE HILL DRIVE #D, ERIE, PA 16509-3135. Dimensions: 188 X 115 Acreage: 0.3175 Assessment Map number: 33-163-619.1-006.00 Assessed Value: \$108,200.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

ERIE COUNTY LEGAL JOURNAL LEGAL NOTICE

SALE NO. 32 Ex. #13254 of 2008 WELLS FARGO BANK, N.A., Plaintiff. v. CAROLYN A. STONE. Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 13254-08 Wells Fargo Bank, N.A. vs. Carolvn A. Stone Amount Due: \$91,059.58 Carolyn A. Stone, owner(s) of property situated in City of Erie. Erie County, Pennsylvania being 1205 EAST 28TH STREET, ERIE, PA 16504 Dimensions: 40.5 X 124 Acreage: 0.1153 Assessment Map number: 18-050-045.0-206.00 Assessed Value: 70,770.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 33 Ex. #12687 of 2009 BAC HOME LOANS SERVICING, L.P. F/K/A COUNTRYWIDE HOME LOANS SERVICING, L.P., Plaintift, V.

BLAIR G. UMLAH, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12687-09 BAC Home Loans Servicing, L.P. f/k/a Countrywide Home Loans Servicing, L.P. vs. Blair G. Umlah Amount Due: \$43,458,84 Blair G. Umlah, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 932 EAST 9TH STREET, ERIE, PA 16503-1412 Dimensions: 32 x 155 Acreage: 0.1139 Assessment Map number: 15-020-043.0-235.00

COMMON PLEAS COURT

Assessed Value: \$25,220.00 Improvement thereon: Residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Oct. 30, and Nov. 6, 13

SALE NO. 34 Ex. #14927 of 2007 JPMORGAN CHASE BANK. N.A., AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN ASSET-BACKED **CERTIFICATES, SERIES 2005-**RP2, Plaintiff, v. WILLIAM R. WAKELEY A/K/A WILLIAM RICHARD WAKELEY WILMA M. WAKELEY $\Delta/\mathbf{K}/\Delta$ WILMA MARIE WAKELEY. Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 14927-07 JPMorgan Chase Bank, N.A., as Trustee for the C-Bass Mortgage Loan Asset-Backed Certificates, Series 2005-RP2 vs. William R. Wakeley a/k/a William Richard Wakeley and Wilma M. Wakeley a/k/a Wilma Marie Wakelev Amount Due: \$195,719.68 William R Wakelev a/k/a William Richard Wakelev and Wilma M. Wakeley a/k/a Wilma Marie Wakeley, owner(s) of property situated in Township of McKean, Erie County, Pennsylvania being 9770 OLIVER ROAD. MCKEAN, PA 16426. Acreage: 11.465 Assessment Map number: 31-014-058.0-015.02 Assessed Value: 192,130.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 36 Ex. #12711 of 2009 FLAGSTAR BANK, FSB. Plaintiff. v. RHONDA M. WILKINSON DONALD C. WILKINSON, JR, Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 12711-09 Flagstar Bank, FSB vs. Rhonda M. Wilkinson and Donald C. Wilkin, [sic] Jr. Amount Due: \$221.841.32 Rhonda M. Wilkinson and Donald C. Wilkinson, Jr., owner(s) of property situated in TOWNSHIP OF NORTH EAST, Erie County, Pennsylvania being 11567 EAST LAKE ROAD. NORTH EAST, PA 16428-3270. Assessment Map number[.] 37-011-040.0-006-01 Acreage: 3.8700 Assessed Value: 104,100,00 Assessment Map number: 37-011-040.0-006-00 Acreage: 14,4000 Assessed Value: 50,400.00 Improvement thereon: residential Phelan, Hallinan & Schmieg, LLP Attorney for Plaintiff One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Oct. 30, and Nov. 6, 13

SALE NO. 37 Ex. #15025 of 2007 DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE, Plaintiff V.

MICHAEL S. WAGNER and SOPHIA WAGNER, Defendants <u>PROPERTY DESCRIPTION</u>

All that certain Tract of Lot of Seated Land located in the City of Erie, County of Erie and State of Pennsylvania bounded and described as follows, to wit: Beginning in the east line of Chestnut Street with the south line of 16th Street.

Dwelling known as 1605 Chestnut Street, Erie, PA 16502.

Identified as Tax/Parcel ID#:

(16) 3016-310 in the Deed Registry Office of Erie County, Pennsylvania Daniel J. Mancini, Esquire Attorney for Plaintiff 201A Fairview Drive Monaca, PA 15061 Oct. 30, and Nov. 6, 13

SALE NO. 39 Ex. #12801 of 2009 U.S. BANK NATIONAL ASSOCIATION TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff V.

FRANK M. SAVOIA, Defendants SHERIFF'S SALE

By virtue of a Writ of Execution No. 12801-09, U.S. Bank National Association Trustee for the Pennsylvania Housing Finance Agency, Plaintiff vs. Frank M. Savoia, Defendants Real Estate: 104 EAST 41ST STREET. ERIE. PA Municipality: City of Erie Erie County, Pennsylvania Dimensions: 130 x 50 See Deed Book 1044, Page 769 Tax I.D. (18) 5357-402 Assessment: \$16,100. (Land) \$49,730. (Bldg) Improvement thereon: a residential dwelling house as identified above Leon P. Haller, Esquire Purcell, Krug & Haller 1719 North Front Street Harrisburg, PA 17104 (717) 234-4178 Oct. 30, and Nov. 6, 13

SALE NO. 41 Ex. #12916 of 2009 U.S. BANK NATIONAL ASSOCIATION, (TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, PURSUANT TO A TRUST INDENTURE DATED AS OF APRIL 1, 1982), Plaintiff,

CHRISTOPHER E. CHASE and PATRICE L. EISERT, Defendants SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12916-09, U.S. Bank, et al vs. Christopher E.

Chase and Patrice L. Eisert. owner(s) of property situated in Elk Creek Township, Erie County, Pennsylvania being 8910 Crossingville Road, Albion, PA 16401 Dimensions: 3.8578 acres Assessment Map Number[.] 13-21-35-12 Assess Value figure: 68,470.00 Improvement thereon: Dwelling Louis P. Vitti. Esquire Attorney for Plaintiff 916 Fifth Avenue Pittsburgh, PA 15219 (412) 281-1725

Oct. 30, and Nov. 6, 13

SALE NO. 42

Ex. #11304 of 2004 Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc., Plaintiff v.

Larry J. Fey and Ruth E. Smith, Defendant

SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 11304-04, Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc. v. Larry J. Fey and Ruth E. Smith, Owner(s) of property situated in City of Erie, Erie County, Pennsylvania, being 2921 Holland Street, Erie PA 16504

ALL THAT CERTAIN piece or parcel of land situate in the City of Erie, County of Erie and Commonwealth of Pennsylvania, more particularly bounded and described as follows, to-wit:

BEGINNING at a point in the East line of Holland Street sixty (60) feet North of the North line of Thirtieth Street; thence Eastwardly parallel with Thirtieth Street, one hundred (100) feet to a point; thence Northwardly parallel with Holland Street, thirty (30) feet to a point; thence Westwardly parallel with Thirtieth Street, one hundred (100) feet to the East line of Holland Street; thence Southwardly along the East line of Holland Street, thirty (30) feet to the place of beginning.

HAVING erected thereon a twostory frame dwelling house and garage, commonly known as 2921

Holland Street, Erie, Pennsylvania. TOGETHER with the right in the driveway as conveyed in that certain Deed of August 11, 1920. Erie County Tax Index No. (18)5082-126 Assessment Map number: (18)5082-126 Assessed Value figure: \$35,130.00 Improvement thereon: Residential Dwelling Martha E. Von Rosenstiel, Esquire 649 South Avenue, Unit #6 P.O. Box 822 Secane, PA 19018 (610) 328-2887 Oct. 30, and Nov. 6, 13

SALE NO. 44 Ex. #10695 of 2009 CITIMORTGAGE INC., Plaintiff

LAURA J. CASEY A/K/A LAURA JANE RIHEL, Defendant(s) <u>DESCRIPTION</u>

ALL that parcel of land in Township of Harborcreek, Erie County, Commonwealth of Pennsylvania, as more fully described in Deed Book 1050, Page 842, ID # (27) 47-187-10, being known and designated as; Lot 155-157, Brookside, filed in Plat Book 2, Page 342.

Deed from Daniel T. Casey Jr. and Laura J. Casey, husband and wife as set forth in Deed Book 1050. Page 842 Date 08/12/2003 and Recorded 08/13/2003, Erie County Records, Commonwealth of Pennsylvania PROPERTY ADDRESS: 3855 Hereford Road, Erie, PA 16510 Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322 Oct. 30, and Nov. 6, 13

SALE NO. 45 Ex. #12907 of 2009 CITIMORTGAGE INC. F/K/A CITIFINANCIAL MORTGAGE COMPANY INC., Plaintiff V.

ARTHUR L. JASKIEWICZ CHRISTINE M. JASKIEWICZ, Defendant(s)

DESCRIPTION

ALL that certain piece or parcel of land situate in the Township of Millcreek. County of Erie and Commonwealth of Pennsylvania, being Lot No. 24, Block "F", in Evans Estates, Subdivision No. 2, of part of Reserve Tract No. 17, as the same is shown on a map of said subdivision recorded in the Office of the Recorder of Deeds in and for said County of Erie, Pennsylvania, in Map Book No. 4, pages 320, 322 and 323 to which reference is made for a further description of said property, and being known as 3045 West 24th Street, Erie, Pennsvlvania.

Erie County Tax Index No. (33) 52-217-9.

Subject to all restrictions, rights of way, building lines, leases and oil and gas leases of record and to all easements and rights of way visible and discoverable upon an inspection of the premises. PROPERTY ADDRESS: 3045

PROPERTY ADDRESS: 3045 West 24th Street, Erie, PA 16506 Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Oct. 30, and Nov. 6, 13

SALE NO. 46 Ex. #13727 of 2008 COUNTRYWIDE HOME LOANS, INC., Plaintiff

EDWARD E. KAVALA JR. LEA M. KAVALA, Defendants <u>DESCRIPTION</u>

All that certain property situated in the Township of Concord in the County of Erie and Commonwealth of Pennsylvania, being more fully described in a deed dated 11/20/2000 and recorded 11/22/2000, among the land records of the county and state set forth above, in deed volume 739 and page 842.

ALSO DESCRIBED IN DEED AS: ALL THAT CERTAIN piece or parcel of land situate in the Township of Concord, County of Erie, and State of Pennsylvania, bounded and described as follows to-wit: BEGINNING at the northeast corner of land now or formerly owned by Robert Akam in the center of the road; THENCE west along the said now or formerly Akam's north line thirty-two or (32) rods to a stake; THENCE north parallel to the road twenty (20) rods to lands now or formerly owned by Jahial Drake, Jr.; THENCE east parallel to the first line aforementioned thirty-two (32) rods to the center of the road: THENCE southerly along the center of the road (20) rods to the place of beginning. Containing four (4) acres of land, be the same more or less. PROPERTY ADDRESS: 21180 Lindsey Hollow Road, Corry, PA 16407

Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Oct. 30, and Nov. 6, 13

SALE NO. 47 Ex. #12933 of 2009 DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE ON BEHALF OF MORGAN STANLEY ABS CAPITAL I INC. TRUST 2004 HE8 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2004 HE8, Plaintiff

LARRY A. NEAVINS ANGELA M. NEAVINS, Defendant(s) <u>DESCRIPTION</u>

All that certain piece or parcel of land situate in the City of Erie, County of Erie and State of Pennsylvania, being Lot B of a replot of Lots 131, 132, 133, 134, 135, 136, and 139 of Burton Terrace Subdivision as recorded in Erie County Map Book 17 at page 57, to which reference is made for further description of said property. This is a parcel 65 feet by 100 feet which has erected thereon as singlefamily residence commonly known as 2306 Cameron Road, and bears Erie County Tax Index No. (18)5125-302

PROPERTY ADDRESS: 2306 Cameron Road, Erie, PA 16510

Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322 Oct. 30, and Nov. 6, 13

SALE NO. 49 Ex. #12532 of 2009 CITIMORTGAGE INC., Plaintiff V.

BRANDON J. SPANGLER, as Administrator of the Estate of Lisa J. Spangler, Deceased <u>DESCRIPTION</u>

ALL that certain piece or parcel of land situate in the Township of Lawrence Park, County of Erie and Commonwealth of Pennsylvania, being part of Tract 246, bounded and described as follows, to-wit: BEGINNING at an iron pin in the west right-of-way line of Burkhart Street at the southeast corner of the parcel herein described, said point being the intersection of Lots #34 and #35 of the Burklee Place Subdivision as recorded in Erie County Map Book 4, page 122 and 123;

THENCE South 64 degrees 15 minutes 00 Seconds West, along said line, one hundred forty-two (142) feet to an iron pin;

THENCE North 25 degrees 45 minutes 00 seconds West, one hundred fifty (150) feet to a spike in the concrete base of a fence post; THENCE North 64 degrees 15 minutes 00 seconds East, one hundred forty-two (142) feet to an iron pin in the west right-of-way line of Burkhart Street;

THENCE South 25 degrees 45 minutes 00 seconds East, along said street, one hundred fifty (150) feet to the point of beginning; CONTAINING 0.489 acre of land; PROPERTY ADDRESS: 802 Burkhart Avenue, Erie, PA 16511 Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Oct. 30, and Nov. 6, 13

SALE NO. 50 Ex. #12842 of 2009 BANK OF AMERICA, Plaintiff V.

JENNIFER M. WALLS, Defendant(s) DESCRIPTION

All that certain piece or parcel of land situate in the Township of Millcreek, County of Erie and State of Pennsylvania, being Lot No. One Hundred Thirtyfive (135) of the Andrews Land Company Subdivision known as WESTRIDGE, part of Tract No. 25, as shown upon a map of said subdivision recorded in Erie County Deed Book 221, page 795.

ALSO DESCRIBED IN DEED AS: ALL that certain piece or parcel of land situate in the Township of Millcreek, County of Erie and State of Pennsylvania, being Lot No. One Hundred Thirtyfive (135) of the Andrews Land Company Subdivision known as WESTRIDGE, part of Tract No. 25, as shown upon a map of said subdivision recorded in Erie County Deed Book 221, page 795. Having erected thereon a two-story dwelling and garage and being commonly known as 3021 Court Avenue, Erie, Pennsylvania and being further identified as Erie County Tax Assessment No. (33) 73-307-11 PROPERTY ADDRESS: 3021

Court Avenue, Erie, PA 16506 Michael T. McKeever, Esquire Attorney for Plaintiff Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Oct. 30, and Nov. 6, 13

SALE NO. 51 Ex. #14465 of 2008 Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Company of Pennsylvania V.

Charles J. Dominick SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 14465-08 Beneficial Consumer Discount COMMON PLEAS COURT

Company d/b/a Beneficial Mortgage Company of Pennsylvania v. Charles J. Dominick, owners of property situated in the Township of Fairview, Erie County, Pennsylvania being 515 Avonia Road, Fairview, Pennsylvania 16415. Tax I.D. No. (21) 12-11-60 Assessment: \$ 31.667.15 Improvements: Residential Dwelling McCabe, Weisberg and Conway, PC 123 South Broad Street, Suite 2080 Philadelphia, PA 19109 Oct. 30, and Nov. 6, 13

SALE NO. 52

Ex. #12781 of 2008 Wells Fargo Bank, N.A. as Trustee for Option One Mortgage Loan Trust 2005-5 Asset-Backed

Certificate, Series 2005-5

v. David B. Getz

SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 12781-08

Wells Fargo Bank, N.A. As Trustee For Option One Mortgage Loan Trust 2005-5 Asset-Backed Certificate, Series 2005-5 v. David B. Getz, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 4115-7 West 30th Street, Erie, Pennsylvania 16506.

Tax I.D. No. (33) 64-244-19 Assessment: \$ 158,805.23 Improvements: Residential

Dwelling

McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080

Philadelphia, PA 19109

Oct. 30, and Nov. 6, 13

SALE NO. 54 Ex. #11195 of 2009 Indymac Federal Bank FSB

v. Jacqueline J. Pesi SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 11195-09 Indymac Federal Bank FSB v. Jacqueline J. Pesi, owners of property situated in the Township of Millcreek, Erie County,

Pennsylvania being 727 West Gore Road, Erie, Pennsylvania 16509. Tax I.D. No. (33) 119-460-11 Assessment: \$ 194,104.39 Improvements: A Residential Dwelling McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080 Philadelphia, PA 19109 Oct. 30, and Nov. 6, 13

SALE NO. 55 Ex. #12138 of 2009 BAC Home Loans Servicing, L.P. fka Countrywide Home Loans Servicing, L.P.

v.

Timothy A. Soggs SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 12138-09 BAC Home Loans Servicing, L.P. fka Countrywide Home Loans Servicing, L.P. v. Timothy A. Soggs, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 2925 Feasler Street, Erie, Pennsylvania 16506. Tax I.D. No. 33-73-303-3 Assessment: \$ 72,759.49 Improvements: Residential Dwelling

McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080

Philadelphia, PA 19109

Oct. 30, and Nov. 6, 13

ORPHANS' COURT

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

BROOKS, DAVID L., deceased

Late of Erie County *Executor:* Bryan Brooks *Attorney:* Stanley G. Berlin, Esquire, Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 305 West 6th Street, Erie, PA 16507

BROOKS, STEVEN T., deceased

Late of Erie County *Executor:* Bryan Brooks *Attorney:* Stanley G. Berlin, Esquire, Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 305 West 6th Street, Erie, PA 16507

COLEGRANDE, PAMELA J., deceased

Late of the City of Erie, County of Erie and State of Pennsylvania Administratrix: Frances Colegrande, 2166 South Manor Drive, Erie, PA 16505 Attorney: Edwin W. Smith, Esq., Shapira, Hutzelman, Berlin, Ely, Smith & Walsh, 305 West Sixth Street, Erie, PA 16507

COOK, ANNAGRACE EILEEN, a/k/a ANNAGRACE E. COOK, deceased

Late of Erie, Pennsylvania Executor: Kevin V. Cook, 9940 North Clear Fork Road, Prescott, AZ 86305

Attorney: Todd A. Fuller, Brenlove & Fuller, LLC, P.O. Box 36, 401 Washington Avenue, Bridgeville, PA 15017

ELLETSON, GERALDINE N., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania *Administrator:* John S. Stein Sr., c/o Kevin M. Monahan, 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

JACKSON, CAROL D., deceased

Late of the City of Erie Co-Executors: Daniel Peplinski and Sharon Peplinski Attorney: Lawrence L. Kinter, Esquire, 3820 Liberty Street, Erie, PA 16509

MARSHALL, WILMA M., deceased

Late of the City of Erie, Erie County, Pennsylvania *Executor:* Richard E. Marshall, c/o 3209 East Avenue, Erie, PA 16504 *Attorney:* Cathy M. Lojewski, Esq., 3209 East Avenue, Erie, PA 16504

MIKOLAJCZAK, MICHAEL R., deceased

Late of the City of Erie, Erie County, Pennsylvania *Executor:* Michele L. Nowacki, 158 Shanor Heights, Butler, PA 16001 *Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

MITCHELL, RICHARD L., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania Administrator: Christian A. Mitchell Attorney: Stephen H. Hutzelman, Esq., 305 West Sixth Street, Erie, PA 16507

ORPHANS' COURT

MOCZULSKI, MARY M., deceased

Late of the City of Erie, Erie County, Pennsylvania *Executrix:* Diane M. Sanfilippo, c/o 3209 East Avenue, Erie, PA 16504 *Attorney:* Cathy M. Lojewski, Esq., 3209 East Avenue, Erie, PA 16504

MURPHY, DOROTHY M., deceased

Late of the City of Erie, Erie County, Pennsylvania *Executrix:* Marilyn A. Allegretto, c/o Thomas A. Tupitza, Esq., 120 W. 10th St., Erie, PA 16501 *Attorney:* Thomas A. Tupitza, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

SCHLOSSER, CALVIN PAUL, deceased

Late of the Township of Millcreek, County of Erie, and Commonwealth of Pennsylvania *Executor:* John C. Schlosser, 4024 Donahue Road, Erie, PA 16506

Attorney: Gregory P. Sesler, Esquire, Sesler and Sesler, 109 East Tenth Street, Erie, PA 16501

SIMONETTI, FRANCIS R., deceased

Late of the City of Erie, Commonwealth of Pennsylvania *Executor:* Ronald R. Simonetti, 871 West 50th Street, Erie, PA 16509 *Attorney:* Timothy D. McNair, Esquire, Law Offices of Timothy D. McNair, 821 State Street, Erie, PA 16501

SWANEY, RITA,

deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania

Executrix: Carol McCall, 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 Late of Millcreek Township, Erie County, Pennsylvania Administrator: Walter Nesgoda, 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

WAISLEY, MERNA V., deceased

Late of the Township of McKean, County of Erie, Commonwealth of Pennsylvania

Executor: Bernard H. Teodorski, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506 *Attorney:* James F. Toohey, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

WEBB, CAROLYN O.,

deceased

Late of the Township of Union, County of Erie, Commonwealth of Pennsylvania *Co-Executors:* Kenyon D. Webb and Keith J. Webb, c/o Paul J. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407 *Attorney:* Paul J. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407

Notice is hereby given of the administration of the Trust set forth below. All persons having claims or demands against the decedent are requested to make known the same and all persons indebted to said decedent are requested to make payment without delay to the trustee named below.

PIPOLY, RUTH V., deceased

Late of the Township of Millcreek, County of Erie, and Commonwealth of Pennsylvania *Trustee:* Terrence J. Pipoly, 11942 Dynamite Lane, Kuna, ID 83634 *Attorneys:* MacDonald, Illig, Jones & Britton, LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

SECOND PUBLICATION

ALFIERI, NORMA M.,

deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania

Executor: Daniel L. Alfieri, 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

BAUER, HELEN R., deceased

Late of the Township of Harborcreek, County of Erie and Commonwealth of Pennsylvania *Executrix:* Kathryn M. Wilcox, c/o W. Atchley Holmes, Esquire, 3820 Liberty Street, Erie, PA 16509

Attorney: W. Atchley Holmes, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, PA 16509

BRONAKOSKI, MARY,

deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania *Executrix:* Barbara A. Wood, c/o Yochim & Nash, 345 West Sixth Street, Erie, PA 16507 *Attorney:* Gary H. Nash, Esquire, Yochim & Nash, 345 West Sixth Street, Erie, PA 16507

BROWN, WILLIAM E., SR., deceased

Pennsylvania 16428

Late of North East Township, Erie County, North East, Pennsylvania Administrator: Robert J. Jeffery, 33 East Main Street, North East, Pennsylvania 16428 Attorney: Robert J. Jeffery, Esquire, Orton & Jeffery, P.C., 33 East Main Street, North East,

FERL, RANDY THOMAS, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania *Administratrix:* Beverly Ferl *Attorney:* Stephen H. Hutzelman, Esq., 305 West Sixth Street, Erie, PA 16507

FOX, WILLIAM A.,

deceased

Late of Harborcreek Township Administrator: Charlotte F. Drobniewski, c/o 332 East 6th Street, Erie, PA 16507-1610 Attorney: Evan E. Adair, Esq., Williams and Adair, 332 East 6th Street, Erie, PA 16507-1610

KEMICK, ROBERT S., deceased

Late of the Township of North East, County of Erie, State of Pennsylvania

Executrix: Elizabeth A. Seitz, c/o 78 East Main Street, North East, PA 16428

Attorney: John C. Brydon, Esq., Brydon Law Office, 78 East Main Street, North East, PA 16428

PARKER, SUSAN K., deceased

Late of the Borough of North East, County of Erie, State of Pennsylvania

Executrix: Lynda M. Parker, c/o 78 East Main Street, North East, PA 16428

Attorney: John C. Brydon, Esq., Brydon Law Office, 78 East Main Street, North East, PA 16428

RICK, AUDREY LOIS, a/k/a AUDREY L. RICK, a/k/a AUDREY RICK, deceased

Late of the City of Erie, County of Erie, and State of Pennsylvania *Administrator:* Randal E. Rick, 3419 Dynes Avenue, Erie, PA 16510

Attorney: Stephen A. Tetuan, Esquire, 558 West Sixth Street, Erie, PA 16507

SHERRELL, RICHARD A., SR., deceased

Late of the City of Erie Executor: Mary L. Sherrell, 1343 E. 20th St., Erie, PA 16503 Attorney: Larry D. Meredith, Esq., 2021 E. 20th St., Erie, PA 16510

TABB, JOHN A., a/k/a JOHN TABB,

deceased

Late of the City of Erie, County of Erie, and State of Pennsylvania *Executrix:* Nancy L. Carlucci, 303 Presque Isle Boulevard, Unit 102, Erie, PA 16505 *Attorney:* Stephen A. Tetuan, Esquire, 558 West Sixth Street, Erie, PA 16507

TUZNIK, EUGENIA A., a/k/a EUGENIA A. RUTKOWSKI, a/k/a EUGENIA TUZNIK, a/k/a EUGENIA A. RUTKOWSKI TUZNIK, a/k/a JEAN RUTKOWSKI, a/k/a JEAN A. RUTKOWSKI, deceased

Late of the City of Erie, County of Erie, Pennsylvania *Co-Executors:* Mary Beth Dillon and Stanley J. Tuznik, c/o 150 West Fifth St., Erie, PA 16507 *Attorney:* Colleen C. McCarthy, Esq., McCarthy, Martone & Peasley, 150 West Fifth St., Erie, PA 16507

THIRD 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 BEICHNER, 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

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

David A. Schroeder	(814) 461-7876
1001 State Street, Suite 1429	(f) (866) 756-0133
Erie, PA 16501	counsel99@aol.com
	<u> </u>
Rebecca Wolford	(814) 459-7754
337 West Sixth Street	(f) (814) 240-1022
Erie, PA 16507	

IF THERE ARE ANY NEW ATTORNEYS IN ERIE INTERESTED IN JOINING THE ERIE COUNTY BAR ASSOCIATION, PLEASE CALL 459-3111 AND AN APPLICATION WILL BE MAILED TO YOU OR GO TO OUR WEBSITE AT <u>WWW,ERIEBAR.COM</u> AND FILL OUT THE ONLINE APPLICATION.

> IF YOU KNOW OF ANY ADDRESS CHANGES PLEASE CONTACT THE LEGAL JOURNAL OFFICE AT 459-3111 OR *ADMIN@ERIEBAR.COM*. THANK YOU.

The Erie County Bar Foundation and its Justice Samuel J. Roberts Scholarship Fund continue to be in need of contributions to support this scholarship program. Have you made your contribution yet? If not, you can find information about the scholarship and make an online contribution at www.eriebar.com or contact the ECBF at 459-3111.

Erie County Bar Association

Videoconferencing Services



WHAT IS VIDEOCONFERENCING?

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WHAT CAN VIDEOCONFERENCING BE USED FOR?

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HOW DO I FIND A VIDEOCONFERENCING SITE IN THE CITY WHERE THE OTHER PARTY IS LOCATED?

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.

WHO MAY USE THIS SERVICE?

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:

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

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

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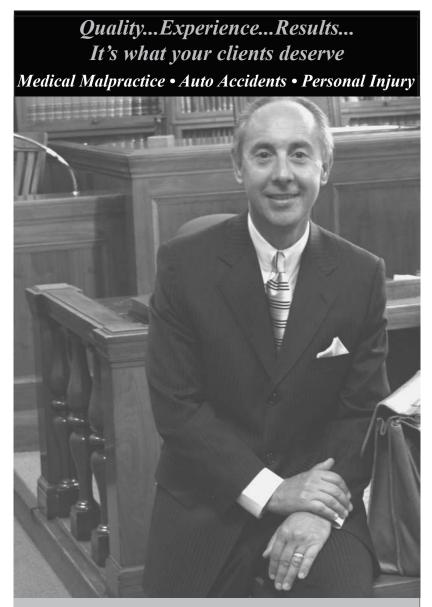
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