

*Erie
County
Legal
Journal*

November 27, 2009

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Czarnecki v. Erie County Farms, Inc.

Erie County Legal Journal

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

Managing Editor: Paula J. Gregory

Associate Editor: Heidi M. Weismiller

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

All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Erie County Bar Association nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes in content.

The Erie County Legal Journal makes no representation as to the quality of services offered by an advertiser in this publication.

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Erie County Bar Association

Calendar of Events and Seminars

TUESDAY, DECEMBER 1, 2009

E-Commerce: Legal and Practical Issues

PBI Groupcast Seminar

Bayfront Convention Center

9:00 a.m. - 4:30 p.m. (8:30 a.m. reg.)

\$274 (member) \$254 (admitted after 1/1/05)

\$294 (nonmember)

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

\$249 (member) \$229 (admitted after 1/1/05) \$269 (nonmember)

6 hours substantive

WEDNESDAY, DECEMBER 2, 2009

Ethics Potpourri: Harry Potter and the Lawyer's Curse

PBI Video Seminar

Bayfront Convention Center

9:00 a.m. - 10:00 a.m. (8:30 a.m. reg.)

\$39 (member) \$49 (nonmember)

1 hour ethics

THURSDAY, DECEMBER 3, 2009

Functional Capacity Evaluation

PBI Groupcast Seminar

Bayfront Convention Center

9:00 a.m. - 1:15 p.m. (8:30 a.m. reg.)

\$224 (member) \$204 (admitted after 1/1/05)

\$244 (nonmember)

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

\$199 (member) \$179 (admitted after 1/1/05) \$219 (nonmember)

4 hours substantive

TUESDAY, DECEMBER 8, 2009

Identity Theft 2009

PBI Video Seminar

Bayfront Convention Center

9:00 a.m. - 1:30 p.m. (8:30 a.m. reg.)

\$129 (member) \$109 (admitted after 1/1/05)

\$149 (nonmember)

4 hours substantive

THURSDAY, DECEMBER 10, 2009

From the Silver Screen to the Courtroom:

Interpretation and Advice on Trial Techniques Used in the

Best Law-Related Films Ever Made.

ECBA Live Seminar; 1:45 - 3:45 p.m.

2 hours substantive; \$54 (ECBA members) \$79 (nonmembers)

Avoiding Malpractice

ECBA Live Seminar; 4:00 - 5:00 p.m.

1 hour ethics; \$54 (ECBA members) \$79 (nonmembers)

ECBA Membership Meeting/Holiday Cocktail Party/Annual

Dinner with Judge Bozza's Portrait Unveiling/Steelers v.

Browns Football Game

Ambassador Conference Center

Social hour starts at 5:00 p.m.

\$99 (ECBA member package deal for

all of the day's events including CLE)

for additional pricing options, please contact the

ECBA office or go to www.eriebar.com - member center

FRIDAY, DECEMBER 11, 2009

Anatomy for Lawyers: Mastering Medical Records

PBI Groupcast Seminar

Bayfront Convention Center

8:30 a.m. - 3:45 p.m. (8:00 a.m. reg.)

includes lunch

\$304 (member) \$284 (admitted after 1/1/05)

\$324 (nonmember)

Early Registration - If you register more than 2 days before this

presentation you will qualify for this Early Registration Fee:

\$279 (member) \$259 (admitted after 1/1/05) \$299 (nonmember)

5 hours substantive / 1 hour ethics

MONDAY, DECEMBER 14, 2009

The Family and Medical Leave Act:

PBI Groupcast Seminar

Bayfront Convention Center

12:30 p.m. - 4:45 p.m. (12:00 p.m. reg.)

includes lunch

\$244 (member) \$224 (admitted after 1/1/05)

\$264 (nonmember)

Early Registration - If you register more than 2 days before this

presentation you will qualify for this Early Registration Fee:

\$219 (member) \$199 (admitted after 1/1/05) \$239 (nonmember)

4 hours substantive

2009 BOARD OF DIRECTORS

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Office Suite Available

Suite of nearly 1,200 sq. ft. available immediately. Private restroom. Parking and utilities included in rent. One block east of Perry Square. Call 456-4000 for more details.
Nov. 20, 27 and Dec. 4, 11

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NOTICE

**In Re:
Court Closures**

Please be advised that the Pittsburgh Division and the Erie Division of this Court will be operating with modified hours on the following days in December 2009:

Date	Office	Modified Hours
December 4, 2009	Erie Division	Closed at 12:00 p.m.
December 11, 2009	Pittsburgh Division	Closed at 12:30 p.m.
December 24, 2009	Pittsburgh Division and Erie Division	Closed all day
December 31, 2009	Pittsburgh Division and Erie Division	Closed at 2:00 p.m.

John J. Horner
Clerk of Court

Nov. 27

**PUBLIC DEFENDER POSITION
ERIE COUNTY PENNSYLVANIA**

Erie County Pennsylvania County Executive-elect Barry Grossman invites applications for a full-time Chief Public Defender for the Court of Common Pleas of Erie County to commence subsequent to his inauguration on January 5, 2010. The successful candidate will be prohibited from engaging in the private practice of law.

The County Executive-elect has formed an advisory merit selection committee to review and interview applicants for this position. The current salary is \$99,949.00 per year plus comprehensive health and pension benefits.

Applicants must have a current Pennsylvania Bar license and be in good standing. Interviews will be conducted at the Erie County Bar Association offices in Erie, Pennsylvania at 302 West 9th Street. The County of Erie is an EEO/AA/Title VI/Title IX/Section 504/ADA/ADEA employer. All qualified applicants will receive equal consideration for employment without regard to race, color, national origin, religion, sex, pregnancy, marital status, sexual orientation, gender identity, age, physical or mental disability, or covered veteran status.

Applications may be obtained at www.eriebar.com. Applications will be kept confidential and must be submitted or postmarked on or before December 17, 2009 by mail, fax or email to:

Leonard G. Ambrose, III, Esquire
Chairman, Advisory Merit Selection Committee
c/o Erie County Bar Association
302 West 9th St., Erie, PA 16502
Fax No. (814) 455-0788
admin@eriebar.com

Nov. 27

NOTICE OF PROPOSED TERMINATION OF DIVORCE CASE

Plaintiff	:	In the Court of Common Pleas
		of Erie County, Pennsylvania
vs.	:	
Defendant	:	Family Division
	:	
	:	

The Court intends to terminate this case without further notice because the docket shows no activity in the case for at least two years.

You may stop the Court from terminating the case by filing a Statement of Intention to Proceed. The Statement of Intention to Proceed should be filed with the Prothonotary's Office at the Erie County Courthouse, 140 West Sixth Street, Room 120, Erie, Pennsylvania 16501 on or before January 20, 2010.

The Statement of Intention to Proceed shall be in the following form:

(Caption)
Statement of Intention to Proceed

To the Court:

 (name) intends to proceed with the above captioned matter.

Date: _____ (Signature) _____
Attorney for _____

**If you fail to file the required Statement of Intention to Proceed, the case
will be terminated.**

Peter E. Freed, Deputy Court Administrator

<u>PLAINTIFF</u>	<u>DEFENDANT</u>	<u>Docket #</u>
Jane E. Albert	Thomas H. Albert	12032-1998
Kimberly A. Krineski	Gregory A. Krineski	12246-1998
Sharon Alleyne Muldrew	Charles Wayne Muldrew	12279-1998
Dale A. Mayr	Tami Mayr	12295-1998
Michael D. Buchner	Jennifer A. Buchner	12333-1998
John Dunlap	Donna Dunlap	12335-1998
Vicki A. Ballman	Ricki E. Ballman	12353-1998
Clark Jon Zebold	Billi Jo Zebold	12407-1998
Kari Guianen	Steven J. Guianen	12425-1998
Carol Miller	Steven R. Miller, Jr.	12460-1998
Amy Mosley	Marshall Mosley	12498-1998
Bernard Joseph Hartken	Judith Ann Hartken	12555-1998
Kenneth Andrew Doleski	Elizabeth Ann Doleski	12604-1998
Eileen M. Shreve	Calvin A. Shreve	12661-1998
Richard L. Pieri	Heidi A. Pieri	12664-1998
Elizabeth Dittman	Ronald C. Dittman	12722-1998
Margaret A. Alloway	Charles B. Alloway	12778-1998

GAIL R. CZARNECKI, Plaintiff

v.

ERIE COUNTY FARMS, INC., Defendant

*EVIDENCE / OPINIONS / EXPERT TESTIMONY / TREATING
PHYSICIAN REPORT*

To admit a treating physician's opinion that is beyond opinion testimony regarding observations and treatment of the Plaintiff, the treating physician must be named and a report submitted, containing the additional opinions.

*EVIDENCE / OPINIONS / EXPERT TESTIMONY / BASIS OF
EXPERT TESTIMONY*

An expert need not use special language, and as long as the opinion is to a reasonable degree of certainty, it should be allowed.

EVIDENCE / OPINIONS / LAY WITNESS

A lay witness opinion is properly limited to those opinions and inferences which are rationally based on the perception of the witness, helpful to a clear understanding of the witness' testimony or the determination of a factual issue, and not based on scientific, technical or other specialized knowledge.

DAMAGES / MEDICAL BILLS / RECOVERY

A plaintiff seeking recovery of medical bills must prove the following: 1) medical services were rendered; 2) the reasonable charges for those services; 3) that the services rendered were necessary; and 4) that the medical services rendered were related to the injury that occurred.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY,
PENNSYLVANIA CIVIL DIVISION No. 12915-2004

Appearances: George M. Schroeck, Esquire, Attorney for Plaintiff
 Sharon L. Bliss, Esquire, Attorney for Defendant

OPINION

Connelly, J., June 5, 2009

Presently before the Court are Motions in Limine filed by Erie County Farms, Inc. (hereinafter "Defendant"). The Motion seeks to preclude all medical testimony regarding bills and treatment because Plaintiff has never submitted any expert reports.¹ Gail R. Czarnecki (hereinafter

¹ The Court notes that the instant case was certified for the February trial term. On February 18, 2009, immediately prior to scheduled jury selection Defendant presented its Motions in Limine to the Court. The Hon. William R. Cunningham issued an Order February 18, 2009, continuing the case to the June, 2009 term of court noting that "[t]his case was not in a position to be tried during the February term of court." *Order of Cunningham, J., February 18, 2009*. The Order also mandated Plaintiff "file on or before May 1, 2009, a written report from any expert that Plaintiff intends to call at trial, including any medical expert or otherwise. Further, the Plaintiff shall provide to the Defense a copy of any and all medical records for the Plaintiff since 2006 and/or an authorization for the Defendant to receive such records." *Id.*

"Plaintiff") opposes Defendant's Motions noting that any testimony sought to be presented is testimony from her treating physicians and not outside experts and adequate medical records have been provided to Defendant.

CONCLUSIONS OF LAW

A treating physician is not an expert for the purposes of Pa.R.C.P. 4003.5 and 4003.6, so long as the testimony is restricted to personal observations and opinions needed for treatment. A treating physician need not be named nor any report submitted pursuant to interrogatories filed under Rule 4003.5 unless the physician has been specially retained for purposes beyond treating the party. *Kurian v. Anisman*, 851 A.2d 152, 156 (Pa.Super. 2004). Compare, *Smith v. Southeastern PA Transp. Authority*, 913 A.2d 338, 344 (Pa. Cmwlth. 2006) (holding a party may not shield a physician from the requirements of Pa.R.C.P. 4003.5 simply by virtue of designating him as a treating physician. Treating physicians, whose testimony would otherwise not be covered by Pa.R.C.P. 4003.5, may still be considered experts and be subject to the discovery requirements regarding expert testimony if the opinion to be expressed during testimony was developed in anticipation of litigation and was not within the normal course of treatment).

Pa.R.C.P. 4003.5(a) covers any testimony which was "acquired or developed in anticipation of litigation or for trial." When determining if an individual's testimony qualifies as expert testimony under the Rule, a court looks to see if the individual's opinion was developed "with an eye toward litigation." *Miller v. Brass Rail Tavern, Inc.*, 664 A.2d 525, 532 (Pa. 1995). If it has been so developed, the party forming the opinion is deemed an "expert" for purposes of rendering that opinion, and the additional requirements of Pa.R.C.P. 4003.5 apply. *Kurian*, 851 A.2d at 156.

Defendant's first argument avers that any and all medical testimony should be precluded "in light of the failure to provide an expert report in compliance with the Pennsylvania Rules of Civil Procedure." *Motion in Limine*, ¶ 9. Plaintiff asserts that Pennsylvania Rule of Civil Procedure 212.2, which governs pre-trial statements, notes that "a copy of the written report, or answer to written interrogatory consistent with Pa.R.C.P. 4003.5, containing the opinion and the basis for the opinion of any person who may be called as an expert witness," shall be contained in the pre-trial statement. *Pa.R.C.P. 212.2(a)(5)*. Plaintiff also asserts that the rule contains a note indicating that the notes or records of a physician may be supplied in lieu of written reports. *Id.* Plaintiff filed her Pre-Trial Narrative Statement on January 29, 2009 and provided Defendant with the relevant medical records subsequent to its filing.²

² Defendant's Motion in Limine incorrectly states that Plaintiff never filed a Pre-Trial Statement. *Motion in Limine*, ¶ 5.

Because the doctors Plaintiff intends to call as witnesses are Plaintiff's treating physicians, they are not considered experts under Pa.R.C.P. 4003.5. Therefore, they are not required to file expert reports so long as their testimony is restricted to observations and opinions related to their treatment of Plaintiff. Therefore, Defendant's Motion in Limine to preclude all medical testimony is denied.

Defendant next argues that the testimony of Dr. Bradley Fox, Plaintiff's primary care physician, should be precluded in its entirety for his failure to testify within a reasonable degree of medical certainty. Defendant notes that although Dr. Fox testified as to his treatment of the Plaintiff, at no time did he testify that any or all of his opinions were stated within a reasonable degree of medical certainty. *Motion in Limine*, ¶ 11.

Although the expert need not use special language with expert medical testimony, the expert must state an opinion within a reasonable degree of medical certainty. *Gartland v. Rosenthal*, 850 A.2d 671, 677 (Pa. Super. 2004), *reargument denied*. The *Gartland* Court opined that even when a physician uses words like "likely" and "would" because such terms are normal in medical records, the physician's testimony can still be considered if he offered his opinions to a reasonable degree of medical certainty. Here, Dr. Fox's testimony does not use the phrase "within a reasonable degree of medical certainty", however, he unequivocally stated that he believed Plaintiff's complaint of pain was related to the fall at Defendant's store. The Court finds Dr. Fox's testimony meets the requisite certainty standard and therefore should be allowed.

Defendant next argues Dr. Fox's testimony should be limited only to those matters contained specifically in Dr. Fox's records authored by Dr. Fox and therefore no opinions may be offered by Dr. Fox to the jury. *Motion in Limine* ¶ 13. Defendant also argues that Dr. Fox's testimony be limited to treatment before October 2006 because Defendant only had access to Plaintiff's medical records created on and before that date. *Id.* at ¶¶ 14-15.

As noted previously, Dr. Fox is not an expert, but instead is Plaintiff's treating physician and as such he is permitted to testify to his observations and opinions needed for treatment. Therefore, Pa.R.C.P. 4003.5 does not apply. Moreover, the record shows Defendant received updated medical records on February 12, 2009, just before the deposition of Dr. Fox. Plaintiff asserts that she was not in possession of any medical records prepared after October, 2006 until the date of deposition and therefore was not in a position to supplement Defendant's records. Defendant received updated records on February 12, 2009, which predates, but is still in compliance with Judge Cunningham's Order of February 18, 2009 mandating Plaintiff turn over said records. Therefore, Defendant's Motion in Limine to limit Dr. Fox's testimony is denied.

Defendant also argues that testimony of Plaintiff's February 2007

surgery should be precluded because neither Plaintiff's counsel nor Defendant's counsel knew of or had record of Plaintiff's February 2007 surgery until February 12, 2009 (the date of Dr. Fox's deposition) and because Dr. Fox did not testify that the surgery was a result of the fall underlying Defendant's instant action. *Motion in Limine*, ¶¶ 17-19. Defendant asserts that none of the records or reports received indicate that the February 2007 surgery was related to the fall. *Id.* Plaintiff avers that Pennsylvania Rule of Evidence 703 allows an expert to base an opinion or inference on facts or data made known to the expert at or before the hearing. *Response to Defendant's Motion in Limine*, p. 7.

Here, Plaintiff is attempting to utilize Dr. Fox's testimony as expert testimony rather than testimony of a treating physician. Without an expert report as required under Pa.R.C.P. 4003.5, Dr. Fox cannot be used as an expert.³ As a treating physician, Dr. Fox's testimony is limited to his observations and opinions for treatment. Plaintiff had ample opportunity to file a Rule 4003.5 report and failed to do so. Moreover, Plaintiff fully admits that there are no records or reports received indicating that the surgery of February 2007 was in any way related to the underlying incident and Dr. Fox never testified at his deposition that the surgery was related to Plaintiff's fall. Therefore, Defendant's Motion in Limine is granted and testimony related to the surgery of February, 2007 is precluded.

Defendant's next Motion in Limine asks to preclude any and all testimony concerning ongoing pain and discomfort. Defendant argues that because no records were received for treatment post October, 2006 testimony of the Plaintiff and any other witness should be precluded as to any ongoing pain, discomfort, or treatment. *Motion in Limine*, ¶¶ 23-24. Plaintiff asserts that because Defendant was provided with medical records from Dr. Fox noting pain suffered by Plaintiff and because no expert testimony is necessary for a Plaintiff and/or third party witness to testify to pain and suffering, the testimony is proper.

Plaintiff's Pre-Trial Narrative Statement notes that Plaintiff and her treating physicians will testify to ongoing pain and discomfort. It also indicates that lay witness Tina Figueroa will testify to liability. Pennsylvania Rule of Evidence 701 limits a lay witness's opinion testimony to "those opinions or inferences which are rationally based on the perception of the witness, helpful to a clear understanding of the witness'[s] testimony or the determination of a fact in issue, and not based on scientific, technical, or other specialized knowledge[.]" *Pa.R.E. 701*. Pennsylvania courts have held that lay witnesses may testify to

³ Plaintiff's counsel filed a Pre-Trial Narrative statement on January 29, 2009 before he became aware of the February, 2007 surgery. Therefore, the Statement makes no reference to the surgery. Plaintiff never filed a Supplemental Pre-Trial Statement referencing the surgery or containing the opinion and the basis for the opinion of any person who may be called as an expert witness relative to the surgery.

someone's readily observable physical condition or appearance that does not require medical training. *See, Cominsky v. Donovan*, 846 A.2d 1256, 1259 (Pa.Super. 2004).

Therefore, because Defendants were provided with medical records relative to Plaintiff's ongoing pain and suffering and because testimony on the issue will be provided only by Plaintiff, her treating physicians and possibly a lay witness, the Court sees no need for an expert report. Defendant's Motion in Limine to preclude any and all testimony concerning ongoing pain or discomfort is denied.

Defendant's final Motion in Limine seeks to preclude any and all medical bills because Plaintiff's counsel has failed to produce evidence that the treatment Plaintiff received after December 17, 2003 was related to the fall. *Motion in Limine*, ¶ 25.

It is well-settled law that a plaintiff seeking special medical damages must prove the following: (1) medical services were rendered; (2) the reasonable charges for those services; (3) that the services rendered were necessary; and (4) that the medical services rendered were related to the injury that occurred. *Ratay v. Chen Liu*, 260 A.2d 484, 486 (Pa.Super. 1969). Here, Plaintiff has provided medical records from her treating physicians and Dr. Fox's deposition testimony indicates the treatment he provided and the referrals he made were a result of Plaintiff's 2003 fall. Moreover, Plaintiff's Pre-Trial Narrative lists various physicians' billing clerks as potential witnesses to testify to the damages in this case. Therefore, Defendant's Motion in Limine to preclude any and all medical bills is denied.

ORDER

AND NOW, to-wit, this 5th day of June, 2009, it is hereby **ORDERED, ADJUDGED** and **DECREED** that Defendant's Motions in Limine are **GRANTED** in part and **DENIED** in part as follows:

1. Defendant's Motion in Limine to preclude any and all medical testimony is **DENIED**.
2. Defendant's Motion in Limine to preclude testimony in its entirety for failure to testify within a reasonable degree of medical certainty is **DENIED**.
3. Defendant's Motion in Limine to limit Dr. Bradley Fox's testimony is **DENIED**.
4. Defendant's Motion in Limine to preclude testimony related to Plaintiff's February, 2007 surgery is **GRANTED**.
5. Defendant's Motion in Limine to preclude any and all testimony concerning ongoing pain or discomfort is **DENIED**.
6. Defendant's Motion in Limine to preclude any and all medical bills is **DENIED**.

BY THE COURT:

/s/ **Shad Connelly, Judge**

BANKRUPTCY NOTICE

THE UNITED STATES
BANKRUPTCY COURT FOR
THE WESTERN DISTRICT OF
PENNSYLVANIA

IN RE: Kenneth S. Snyder, Debtor
Kenneth S. Snyder, Movant
vs.

RONDA J. WINNECOUR,
ESQ., CHAPTER 13, TRUSTEE,
NATIONAL CITY BANK n/k/a
FIRST NIAGARA FUNDING,
INC., AND ERIE COUNTY TAX
CLAIM BUREAU, Respondents.
Bankruptcy Case No. 09-11766 TPA

NOTICE OF SALE

Notice is hereby given that the Debtor in the above-captioned proceeding intends to sell the following property as set forth below:

PRICE: \$68,200.00, plus the payment of a 1% transfer tax with an \$4,092.00 Seller's Assist Credit.
HEARING AND LOCATION: December 15, 2009 at 2:30 p.m. before Judge Thomas P. Agresti, U.S. Courthouse, Bankruptcy Court, 17 South Park Row, Erie, PA 16501.

OBJECTION DEADLINE: December 4, 2009, or thereafter as the Court permits, with a copy to the undersigned counsel.

TERMS & CONDITIONS:

- (a) "as-is, where is and with all faults";
- (b) Cash or certified check on date of closing;
- (c) Real estate to close within thirty (30) days of auction;
- (d) Additional bidders may

appear at the sale hearing and bid substantially more than the terms set forth above, whereupon the Court may refuse this Motion for Sale and conduct a public auction at which the property will be sold to the highest bidder, free and divested of liens.

PROPERTY TO BE SOLD: The Real Property commonly known as 21 Center Street, North East, PA 16428.

FOR INFORMATION: Contact Debtor's undersigned counsel at (814) 836-1011
William T. Morton, Esq.
P.A. I.D. No. 30307
3213 West 26th Street
Erie, PA 16506

Nov. 27

RICHARD N. LETTIERI, ESQ.
E-DISCOVERY COUNSEL

Lettieri Law Firm, LLC
1620 King James Drive
Pittsburgh, Pa. 15237
412-364-7255 (Office)
rlettierilaw@live.com
www.lettierilaw.com

RICHARD N. LETTIERI, ESQ.

CHANGE OF NAME NOTICE
 IN THE COURT OF COMMON
 PLEAS OF ERIE COUNTY,
 PENNSYLVANIA

DOCKET NO: 15110-09

IN RE: Charles Anthony Chandler
 Notice is hereby given that on
 November 13, 2009, a Petition
 was filed by the mother, Tracey
 DeSantis in the above named Court,
 requesting an order to change the
 minor child's name to Charles
 Anthony DeSantis.

The Court has fixed the 6th day
 of January, 2010 at 9:00 a.m. in
 Courtroom No. I, of the Erie County
 Courthouse, Erie, Pennsylvania as
 the time and place for hearing on
 said Petition, when and where all
 interested parties may appear and
 show cause, if any, why the request
 of the Petitioner should not be
 granted.

Nov. 27

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. The name and address of the
 person owning or interested in said
 business is: James Kaliszewski,
 2424 West 36th Street, Erie, PA
 16506
 2. The name under which said
 business is being or will be carried
 on is: Kelly Printing & Graphics
 3. The character of the business so
 carried on is: Printing, graphics
 and multi-media production and
 services, as well as any and all
 other purposes permitted under
 Pennsylvania law.
 4. The place where said business is
 to be carried on is: 2424 West 36th
 Street, Erie, PA 16506
 5. The said Certificate was filed on
 November 9, 2009.
- Craig A. Zonna, Esquire
 Elderkin, Martin, Kelly & Messina
 150 East 8th Street
 Erie, PA 16501

Nov. 27

LEGAL NOTICE

MARSHAL'S SALE: By virtue
 of a Writ of Execution issued out
 of the U. S. Court for the W. D. of
 PA at suit of the USA at Civil No.
 1:09-cv-110, I shall expose to public
 sale the real property of Sharon C.
 Saunders known as 89 Grahamville
 Street, North East, PA 16428, being
 fully described in the Deed dated
 November 25, 1998 and recorded in
 the Recorder's Office of Erie County
 in Deed Book Volume 0602, Page
 1160.

TIME AND LOCATION OF SALE:
 Friday, December 18, 2009 at 10:00
 A.M. at the Erie County Sheriff's
 Office, 140 West Sixth Street, Erie,
 PA 16501.

TERMS OF SALE: Successful
 bidder will pay ten percent (10%)
 by cashier's check, certified check
 or bank money order at the time of
 the sale and the remainder of the
 bid within thirty (30) days from
 the date of the sale and in the event
 bidder cannot pay the remainder,
 the property will be resold and all
 monies paid in at the original sale
 will be applied to any deficiency
 in the price at which the property is
 resold. The successful bidder must
 send payment of the balance of the
 bid directly to the U.S. Marshal's
 Office c/o Ms. Sheila Blessing,
 Room 241, U.S. Post Office &
 Courthouse, Pittsburgh, PA 15219.
 Notice is hereby given that a
 Schedule of Distribution will be
 filed by the Marshal's Office on the
 thirtieth day after the date of sale,
 and that distribution will be made
 in accordance with the Schedule
 unless exemptions are filed thereto
 within ten (10) days thereafter. The
 successful bidder takes the real
 estate subject to, and shall pay all
 taxes, water rents, sewer charges,
 municipal claims, and other charges
 and liens not divested by the sale.
 Purchaser must furnish State
 Realty Transfer Tax Stamps, and
 stamps required by the local taxing
 authority. Purchaser shall furnish
 Marshal with Grantee information
 at the time of the sale. Marshal's
 costs, fees and commissions are
 to be borne by seller. Thomas M.
 Fitzgerald, United States Marshal.

For additional information visit
www.resales.usda.gov or contact
 Ms. Kimberly Williamson at
 314-457-5513.

Nov. 13, 20, 27 and Dec. 4

**AUDIT LIST
NOTICE BY
PATRICK L. FETZNER**

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

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Monday, November 30, 2009** and confirmed Nisi.

December 24, 2009 is the last day on which Objections may be filed to any of these accounts.

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

<u>2009</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
327.	Terra J. Pacy	Bernard E. Pacy, Exr.	Elderkin Martin Kelly & Messina
328.	William C. Walker, Jr.	Peggy J. Walker, Admr.	Knox McLaughlin Gornall & Sennett P.C.
329.	Eileen F. Work	Robert D. Work, Exr.	MacDonald Illig Jones & Britton LLP
330.	Stephen Michael Sanner	Mary Jo Sanner, Admr.	Scott E. Miller
331.	Stanley M. Dylewski	Mary Ann Sunseri, Admr.	Steadman Law Offices
332.	Ralph C. Weber	Patricia A. Bonito, Admr.	Yochim & Nash

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

Nov. 27 and Dec. 4

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

CARIDEO, NICHOLAS F., a/k/a NICHOLAS FRANK CARIDEO, deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Tresa Anne Sweny, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508
Attorney: Darlene M. Vlahos, Esquire 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

COLVIN, MARY I., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Administratrix: Mary Rose Winschel, 4454 Holiday Drive, Erie, Pa 16506-1611
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

GRODE, MARCIA N., deceased

Late of the City of Erie, Erie County, Pennsylvania
Executrix: Nancy E. Calior, 328 S. Third Street, Sharpsville, PA 16150-1306
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

HENRY, BERNIECE R., a/k/a BERNIECE ALLISON HENRY, deceased

Late of the Township of Harborcreek, County of Erie, Pennsylvania
Administratrix: Deborah Allison-Logan, 785 Zurich Drive, Hummelstown, PA 17036
Attorney: Robert D. Kodak, Esquire, Kodak & Imblum, P.C., 407 North Front Street, P.O. Box 11848, Harrisburg, PA 17108-1848

PERCY, GEORGE A., deceased

Late of the Township of Millcreek
Executrices: Barbara Clark and Bernice Bliley
Attorney: Norman A. Stark, CPA, Esquire, The Stark Law Firm, 100 State Street, Suite 210, Erie, PA 16507

SCARPELLI, CLEMENT R., deceased

Late of the Township of Millcreek
Executor: James R. Scarpelli
Attorney: Norman A. Stark, CPA, Esquire, The Stark Firm, 100 State Street, Suite 210, Erie, PA 16507

YARRINGTON, THOMAS V., deceased

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania
Executrix: Linda L. Yarrington, 9840 Cross Station Extension, Girard, PA 16417-9307
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

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 or his attorney named below.

MURPHY MICHAEL J., deceased

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania
Trustee: Robert J. Smith, 100 State Street, Suite 700, Erie, PA 16507-1459
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

SECOND PUBLICATION

BACHMAIER, THEODORE H., a/k/a THEODORE BACHMAIER, deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executor: James T. Bachmaier, 3514 Everton St., Silver Spring, MD 20906
Attorney: None

BIELSKI, FRANCES S., deceased

Late of the City of Erie
Executor: Henry G. Brzostowski, 23765 Westside Dr., Canadohta Lake, PA 16438
Attorney: None

CIRILLO, EVA M., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Freida P. Fickenworth, c/o 504 State Street, 3rd Floor, Erie, PA 16501
Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**DeDIONISIO, ERMA, a/k/a
ERMA Z. DeDIONISIO,
deceased**

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

Executor: William F. DeDionisio
Attorney: David J. Rhodes, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**KAUFFMAN, GERALDINE C.,
deceased**

Late of Millcreek Township, Erie County, PA

Executor: Christine A. Palotas, 22124 Daisy Ave., Meadville, PA 16335

Attorney: Lisa Pepicelli Youngs, Esq., Pepicelli, Youngs and Youngs PC, 363 Chestnut Street, Meadville, PA 16335

**KESSELHON, SYLVIA E.,
deceased**

Late of Harborcreek Township

Executor: William J. Heard, Jr., 4304 Aaron Road, Erie, PA 16511-1311

Attorney: Jerome C. Wegley, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**KOWALSKI, MARY T.,
deceased**

Late of Harborcreek Township, Erie County, Erie, Pennsylvania

Executrix: Kathleen A. McCabe, c/o Robert J. Jeffery, Esq., 33 East Main Street, North East, Pennsylvania 16428

Attorney: Robert J. Jeffery, Esq., Orton & Jeffery, P.C., 33 East Main Street, North East, Pennsylvania 16428

**LANGOWSKI, HENRY,
deceased**

Late of the Township of Greene, County of Erie and Commonwealth of Pennsylvania

Administratrix C.T.A.: Eleanor Gleichsner, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**LINK, LEO J.,
deceased**

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

Executor: Robert P. Link, 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

**LONG, JOHN L.,
deceased**

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

Administrator: Jonathan C. Long
Attorney: David J. Rhodes, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**McGINTY, THOMAS M.,
deceased**

Late of Edinboro, Washington Township, County of Erie, Commonwealth of Pennsylvania

Administrator: Melanie McGinty, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

Attorney: Scott L. Wallen, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**MIENTKIEWICZ, DEAN C.,
deceased**

Late of the Township of Edinboro Borough, County of Erie, and Commonwealth of Pennsylvania

Executrix: Tina M. Mientkiewicz
Attorney: James D. McDonald, Jr., Esq., The McDonald Group, L.L.P., P.O. Box 1757, Erie, PA 16507-1757

**MORROW, ROBERT H., SR.,
deceased**

Late of the Township of Harborcreek

Executrix: Susan P. Resinger, c/o James S. Bryan, Esq., 11 Park Street, North East, PA 16428

Attorney: James S. Bryan, Esq., Knox McLaughlin Gornall & Sennett, P.C., 11 Park Street, North East, PA 16428

**MURRAY, ERIC RYAN,
deceased**

Late of the Township of Harborcreek, County of Erie and State of Pennsylvania

Administratrix: Mary Bennett
Attorney: Philip B. Friedman, Esquire, Conner Riley Friedman & Weichler, 17 West 10th Street, Erie, Pennsylvania 16501

**NIESZIELSKI, MARY ANN,
deceased**

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

Executor: Kimberly A. Lucas, c/o 504 State Street, 3rd Floor, Erie, PA 16501

Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**REEDY, VINETTE MARIE,
deceased**

Late of Wayne Township, County of Erie, Commonwealth of PA

Administrator: James J. Goldner, II, c/o Joan M. Fairchild, Esq., 132 N. Center St., Corry, PA 16407

Attorney: Joan M. Fairchild, Esq., 132 N. Center St., Corry, PA 16407

**RICCI, MICHAEL L., JR.,
deceased**

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

Executrix: Michael L. Ricci, Sr., and Diane Ricci, c/o Acquista Law Office, 2525 West 26th Street, Erie, PA 16506

Attorney: Lee S. Acquista, Esquire, Acquista Law Office, 2525 West 26th Street, Erie, PA 16506

**ROBIE, ELEANOR,
deceased**

Late of Millcreek Township, County of Erie, and Commonwealth of Pennsylvania
Executor: William K. Robie, 7202 Cherry Laurel Drive, Port Richey, FL 34668
Attorney: Thomas S. Kubinski, Esquire, The Gideon Ball House, 135 East 6th Street, Erie, PA 16501

**WOOD, ROBERT W.,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Robert Hamilton Wood, 9935 Dominion Drive South, Mobile, AL 36695 and Betty Wood Cornman, 741 East Grandview Boulevard, Erie, PA 16504
Attorneys: MacDonald, Illig, Jones & Britton, LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

THIRD PUBLICATION

**AYMONG, ANGELA ROSE,
a/k/a ANGELA R. AYMONG,
a/k/a ANGELA AYMONG,
deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania
Executrix: Nicole M. Keller, 5919 Greenbriar Drive, Fairview, PA 16415
Attorney: Ronald J. Susmarski, Esq., 4030-36 West Lake Road, Erie, PA 16505

**BARTOSZEK, HELEN,
deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania
Executrix: Joan N. Andrews, 2159 Indigo Creek Avenue, Henderson, NV 89012
Attorney: Thomas S. Kubinski, Esquire, The Gideon Ball House, 135 East 6th Street, Erie, PA 16501

**BROWN, FRED W., JR., a/k/a
FRED WILLIAM BROWN, JR.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: James M. Brown
Attorney: David J. Rhodes, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**CLEMENTE, GENE G.,
deceased**

Late of the City of Erie, County of Erie
Administrator: Peter Clemente, 949 West 27th Street, Erie, PA 16508
Attorney: Barbara J. Welton, Esquire, 2530 Village Common Drive, Ste B, Erie, PA 16506

**GREISHAW, MARION J.,
deceased**

Late of the City of Erie, County of Erie
Executrix: Suzan M. Glenn, 1020 Western Lane, Erie, Pennsylvania 16505
Attorney: W. Richard Cowell, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

**GRUCZA, WILLIAM E.,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: Anne Marie Mazza, 1137 West 8th Street, Erie, PA 16502
Attorney: John E. Gomolchak, Esq., 3854 Walker Blvd., Erie, PA 16509

**HAYNES, RODNEY K.,
deceased**

Late of Harborcreek Township, Erie, Pennsylvania
Executrix: Suzanne M. Haynes, c/o Thomas C. Hoffman II, Esq., 120 West 10th Street, Erie, PA 16501
Attorney: Thomas C. Hoffman, II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**HIXENBAUGH, THOMAS R.,
deceased**

Late of the City of Erie, County of Erie
Executor: Jeffrey Charles Hixenbaugh, 5710 Glenwood Park Avenue, Erie, Pennsylvania 16509
Attorney: John Mir, Esquire, 2530 Village Common Drive, Suite B, Erie, Pennsylvania 16506

**HOGE, RALPH J.,
deceased**

Late of the Township of Summit, County of Erie and Commonwealth of Pennsylvania
Administratrix D.B.N.: Darlene M. Vlahos, Esquire c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508
Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**HOLL, JANE ELLEN,
deceased**

Late of the City of Erie
Administratrix: Lisa Ann Norton, 2621 Bird Drive, Erie, PA 16510
Attorney: Jerome C. Wegley, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**IRISH, JANET B.,
deceased**

Late of the City of Corry, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Barry J. Warnshuis and Candace D. Wells, 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

**JIMENEZ, HECTOR S.,
deceased**

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

**STRENIO, DIANNA M.,
deceased**

Late of the County of Erie,
Commonwealth of Pennsylvania
Administrator: Thomas S.
Talarico, Esquire, 558 West Sixth
Street, Erie, PA 16507
Attorney: Thomas S. Talarico,
Esquire, Talarico & Niebauer,
558 West Sixth St., Erie, PA
16507

**TACCONE, GENEVIEVE T.,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Co-Executors: Anthony S.
Alecci and Anthony Taccone, c/o
3305 Pittsburgh Avenue, Erie,
Pennsylvania 16508
Attorney: Darlene M. Vlahos,
Esquire, 3305 Pittsburgh Avenue,
Erie, Pennsylvania 16508

**TYSON, HAROLD KENNETH,
a/k/a HAROLD K. TYSON,
deceased**

Late of the Township of
Fairview, County of Erie and
Commonwealth of Pennsylvania
Executrix: Carol A. Pirrello,
c/o Pittsburgh Avenue, Erie,
Pennsylvania 16508
Attorney: Darlene M. Vlahos,
Esquire, 3305 Pittsburgh Avenue,
Erie, Pennsylvania 16508

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

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