

*Erie  
County  
Legal  
Journal*

January 22, 2010

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93 ERIE 13 - 18

Porter v. Robert Benjamin Wiley Community Charter School

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# Erie County Legal Journal

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

Managing Editor: Paula J. Gregory

Associate Editor: Heidi M. Weismiller

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

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

### THURSDAY, FEBRUARY 4, 2010

#### *Means Testing*

PBI Video Conference Seminar

Erie County Bar Association

12:00 p.m. - 3:15 p.m. (11:10 a.m. reg.)

*lunch is included*

\$224 (member) \$204 (admitted after 1/1/06)

\$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 1/1/06) \$219 (nonmember)*

3 hours substantive

### THURSDAY, FEBRUARY 4, 2010

#### *Fundamentals of Civil Practice & Procedure*

PBI Groupcast Seminar

Manufacturers Association Conference Center

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

\$224 (member) \$204 (admitted after 1/1/06)

\$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 1/1/06) \$219 (nonmember)*

4 hours substantive

### FRIDAY, FEBRUARY 5, 2010

#### *Medicare Secondary Payer Statute in Liability &*

*Workers Comp. Claims*

PBI Groupcast Seminar

Erie County Bar Association

9:00 a.m. - 11:00 a.m. (8:30 a.m. reg.)

\$194 (member) \$174 (admitted after 1/1/06)

\$214 (nonmember)

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

*\$169 (member) \$149 (admitted after 1/1/06) \$189 (nonmember)*

2 hours substantive

### FRIDAY, FEBRUARY 12, 2010

#### *Special Needs Trust*

PBI Groupcast Seminar

Erie County Bar Association

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

\$244 (member) \$224 (admitted after 1/1/06)

\$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 1/1/06) \$239 (nonmember)*

4 hours ethics

### TUESDAY, FEBRUARY 16, 2010

#### *Juvenile Injustice in Luzerne County: Ethical Consideration for Lawyers, Judges and Prosecutors*

PBI Groupcast Seminar

Erie County Bar Association

9:00 a.m. - 12:15 p.m. (8:30 a.m. reg.)

\$214 (member) \$194 (admitted after 1/1/06)

\$234 (nonmember)

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

*\$189 (member) \$169 (admitted after 1/1/06) \$209 (nonmember)*

3 hours ethics

### FRIDAY, FEBRUARY 12, 2010

#### *ECBA's 6th Annual Evening at JR's Last Laugh*

JR's Last Laugh Comedy Club

5:15 p.m.

*Featuring Comedian Ralph Harris*

\$22 / person

*Cash Bar*

### THURSDAY, FEBRUARY 25, 2010

#### *Evidence for Trial Lawyers*

PBI Groupcast Seminar

Bayfront Convention Center

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

\$344 (member) \$324 (admitted after 1/1/06)

\$364 (nonmember)

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

*\$319 (member) \$299 (admitted after 1/1/06) \$339 (nonmember)*

6 hours substantive

### THURSDAY, FEBRUARY 25, 2010

#### *The Basics of Intellectual Property Law*

PBI Video Seminar

Erie County Bar Association

9:00 a.m. - 12:30 p.m. (8:30 a.m. reg.)

\$129 (member) \$109 (admitted after 1/1/06)

\$149 (nonmember)

3 hours substantive

## 2010 BOARD OF DIRECTORS

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## CHANCELLOR OF THE BAR NOMINATIONS

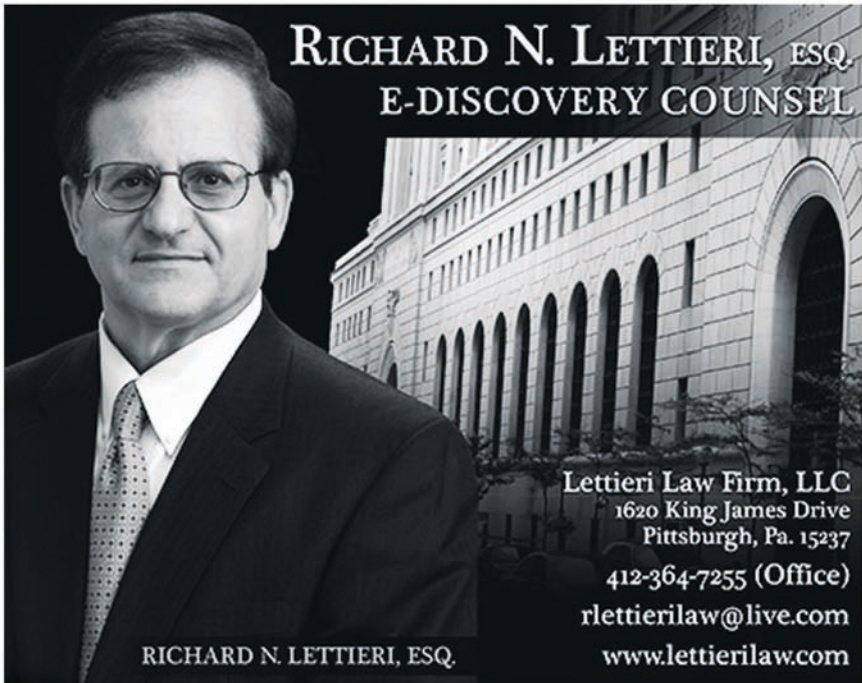
The Erie County Bar Association is accepting nominations for Chancellor of the Bar, properly endorsed by at least five members in good standing and confirming that the nominee has practiced in the Erie County Bar for more than 30 years. Chancellor of the Bar is an honorary position; the Chancellor does serve on the Association's Nominating Committee.

The ECBA's Law Day Committee and Board of Directors will review the nominations and evaluate each nominee's contributions with respect to ethical practice, attitude toward the courts and fellow attorneys and participation in civic affairs/community life.

Nominations should be sent to the ECBA office and received/postmarked no later than Friday, February 5, 2010.

Jan. 15, 22

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**RICHARD N. LETTIERI, ESQ.**  
**E-DISCOVERY COUNSEL**

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

RICHARD N. LETTIERI, ESQ.

# Erie County Bar Association

6th Annual  
Evening at

JR's Last Laugh Comedy Club



**Friday, February 12, 2010**

**JR's Last Laugh Comedy Club**

1402 State Street

**\$22/person (drinks/food at your own expense)**



## Ralph Harris

A Jr's  
Special Event



### Time:

**5:15 p.m.** - Social Hour (cash bar); show room opens for ECBA members only to mingle, have a drink and order food directly from JR's menu (salads, sandwiches, finger foods, etc.)

**6:00 p.m.** - show room opens for the public; ECBA members continue to mingle, order food, cash bar

**6:30 p.m.** - It's Showtime!

**This event is open to all ECBA members and their spouses/significant others/guest.**

**Reservations due to the ECBA office by Friday, February 5, 2010 (Firm Deadline!)**

## THE BRIEFCASE OPEN

6th Annual Pool Tournament  
Benefitting Legal Aid in Erie County

**TUESDAY, MARCH 2**

Andy's Gold Crown Billiards - 7 to 10 p.m.

Sponsored by

Northwestern Legal Services and the Erie County Bar Association



### The Format:

"Whistle-stop" eight ball, and each game is limited to 15 minutes.

### The "Competition":

1. Open Division,
2. Law Office Challenge

### The Cost:

The registration fee is \$20 per person.

All proceeds benefit legal aid  
for low-income residents in  
Erie County.

*Reservations due to the ECBA office no later than Friday, February 19.*

**RON D. PORTER, Plaintiff**

**v.**

**ROBERT BENJAMIN WILEY COMMUNITY CHARTER  
SCHOOL, Defendant**

*MOTION FOR JUDGMENT ON PLEADINGS*

A motion for judgment on the pleadings should only be granted where the pleadings demonstrate that no genuine issue of fact exists, and the moving party is entitled to judgment as a matter of law; and the law is so clear that a trial could be a fruitless exercise.

*MOTION FOR JUDGMENT ON PLEADINGS*

On a motion for judgment on the pleadings, which is similar to a demurrer, the court accepts as true all well-pleaded facts of the non-moving party and only the facts specifically admitted by the non-moving party may be used against it.

*MOTION FOR JUDGMENT ON PLEADINGS*

In ruling on a motion for judgment on the pleadings, a court should confine itself to the pleadings, such as the complaint, answer, reply to new matter and any document or exhibit properly attached to them.

*POLITICAL SUBDIVISIONS*

Section 8541 of the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541, expressly provides, with limited exceptions, that “no local agency shall be liable for any damages on account of any injury to person or property caused by any act of the local agency or an employee thereof or any other person.” 42 Pa.C.S.A. §8541.

*POLITICAL SUBDIVISIONS*

Charter schools are entitled to immunity in the same manner as political subdivisions and local agencies.

*POLITICAL SUBDIVISIONS*

Section 8542(a) of the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8542(a), imposes liability on a local agency for damages on account of injury to a person or property only when the injury was caused by the “negligent acts” of the local agency or its employee, and such acts fits one of the eight exceptions to governmental immunity identified in Section 8542(b) of the Act.

*POLITICAL SUBDIVISIONS*

A claim of defamation, which is an intentional tort, does not constitute a “negligent act” under Section 8542(a) of the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §8542(a), nor does defamation fall into any of the eight enumerated acts that provide exceptions to governmental immunity, as outlined in Section 8542(b) of the Act.

*POLITICAL SUBDIVISIONS*

Section 8550 of the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §8550, provides that the limitations and immunities of the Act do not

apply in a claim of “willful misconduct” against a local agency or an employee thereof. Section 8550 does not, however, create an exception to Section 8542 and, as a result, does not permit the imposition of liability on a local agency for the willful conduct of its employees.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY,  
 PENNSYLVANIA                      CIVIL DIVISION                      NO. 18127 - 2008

Appearances:     Vicki Kuftic Horne, Esq., Attorney for Plaintiff  
                               G. Jay Habas, Esq., Attorney for Defendant

**OPINION AND ORDER**

DiSantis, Ernest J., Jr., J.

This matter comes before the Court on Defendant's, Robert Benjamin Wiley Community Charter School ("Charter School"), Motion for Judgment on the Pleadings. Argument on this matter was conducted on October 28, 2009, before this Court.

**1. BACKGROUND OF THE CASE<sup>1</sup>**

Plaintiff, Ron D. Porter ("Porter"), served as the Charter School's director of human resources from July 1, 2007 until his resignation from employment on January 4, 2008. Porter's Complaint, at ¶¶ 5, 38. Porter was a cabinet member of the Charter School and responsible for employee benefits. *Id.*, at ¶¶ 10, 12

The Charter School serves students in kindergarten through eighth grades from the City of Erie and Pennsylvania. *Id.*, at ¶ 8. From August of 2007 until his death, Theo Overton ("Overton") was the Charter School's Chief Administrative Officer. *Id.*, at ¶ 8. Porter reported directly to Overton, and Overton reported directly to the Charter School's Board of Trustees. *Id.*, at ¶¶ 8, 11.

On January 2, 2008, Diane Barko, a teacher at the Charter School, telephoned Porter at home to report that she was unable to use her medical insurance card when she attempted to obtain medical services. *Id.*, at ¶ 16. At that time, Porter informed her that the medical coverage was in place and that he would call the insurance provider the next morning to confirm that fact. *Id.*

On January 3, 2008, Porter called the insurance provider, C.H. Reams & Associates, concerning the school's medical coverage. *Id.*, at ¶ 17. Porter then received a telephone call from Overton who asked Porter when he had learned about a problem with the employee's health insurance. Porter responded that he became aware of the problem at 9:00 a.m. that morning. *Id.*, at ¶ 18. According to Porter, two teachers were in Overton's office at the time of the telephone call. After Overton hung up, he told the teachers that Porter had lied to him before. *Id.*, at ¶ 21.

<sup>1</sup> The relevant facts and procedural history are derived from the pleadings.

Porter claims that Overton also told the teachers that Porter was weak and incompetent. *Id.*, at ¶ 22.

At Overton's request, Porter and Overton drove to the Reams' office where they were assured that medical coverage was in place. *Id.*, at ¶ 25. It was also confirmed that a rider was signed by Overton and that Porter called about the medical coverage issue that morning. *Id.*, at ¶ 25.

On that same day, Overton called for a meeting of the entire staff, including teachers, administrators, clerical, support and maintenance, to discuss a problem with the health insurance cards. *Id.*, at ¶¶ 27, 28. At the meeting, Overton apologized for the confusion and informed the staff that human resources, i.e. Porter, was responsible for the benefits. *Id.*, at ¶ 29. Porter claims that Overton told the staff that someone in the Cabinet had lied to them and then called Porter to come forward to explain the health insurance issue. *Id.*, ¶¶ 30-31. While Porter was speaking to the employees, Overton stated, "No Ron, don't lie to them; tell them the truth." *Id.*, at ¶ 33. On January 4, 2008, Porter resigned.

In December 2008, Porter filed a Writ of Summons and on March 12, 2009, filed a Complaint against the Charter School, alleging an action for common law defamation. Porter claims Overton was an agent of the Charter School at the time alleged defamatory statements were made.

On April 13, 2009, the Charter School filed preliminary objections, which this Court denied on June 4, 2009. On August 25, 2009, the Charter School filed a Motion for Judgment on the Pleadings and supporting brief. Porter filed his brief in opposition on September 28, 2009. On October 5, 2009, the Charter School filed a reply to Porter's brief in opposition.

## II. LEGAL DISCUSSION

### A. Standard of Review

A motion for judgment on the pleadings should only be granted where the pleadings demonstrate that no genuine issue of fact exists, and the moving party is entitled to judgment as a matter of law. *See*, Pa.R.C.P. 1034. On a motion for judgment on the pleadings, which is similar to a demurrer, the court accepts as true all well-pleaded facts of the non-moving party and only the facts specifically admitted by the non-moving party may be used against it. *Mellon Bank v. National Union Ins. Company of Pittsburgh*, 768 A.2d 865 (Pa. Super. 2001).

In ruling on a motion for judgment on the pleadings, a court should confine itself to the pleadings, such as the complaint, answer, reply to new matter and any document or exhibit properly attached to them. *Kelly v. Nationwide Ins. Co.*, 606 A.2d 470, 471 (Pa. Super 1992). Such a motion may only be granted in cases where no material facts are at issue and the law is so clear that a trial could be a fruitless exercise. *Ridge v. State Employees Retirement Board*, 690 A.2d 1312, 1314 n.5 (Pa.Cmwlth. 1997).



**B. Whether Defendant is entitled to absolute immunity under the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §§8541, et. seq.**

Section 8541 of the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 ("Act"), expressly provides that, "[e]xcept as otherwise provided in this subchapter, no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person." 42 Pa.C.S.A. § 8541. Charter schools are entitled to immunity in the same manner as political subdivisions and local agencies. *Warner v. Daniel Lawrence and World Communications Charter School*, 900 A.2d 980, 985 (Pa. Cmwlth. 2006), citing, 24 P.S. § 17-1714-A(a)(2) and 24 P.S. § 17-1727-A.

There are, however, exceptions to the grant of immunity under the Act. Section 8542 provides the following:

**§ 8542. Exceptions to governmental immunity**

(a) **Liability imposed.** - A local agency shall be liable for damages on account of an injury to a person or property within the limits set forth in this subchapter if both of the following conditions are satisfied and the injury occurs as a result of one of the acts set forth in subsection (b):

(1) The damages would be recoverable under common law or a statute creating a cause of action if the injury were caused by a person not having available a defense under section 8541 (relating to governmental immunity generally) or section 8546 (relating to defense of official immunity); and

(2) The injury was caused by the **negligent acts** of the local agency or an employee thereof acting within the scope of his office or duties with respect to one of the categories listed in subsection (b). As used in this paragraph, "negligent acts" shall not include acts or conduct which constitutes a crime, actual fraud, actual malice or willful misconduct.

42 Pa.C.S.A. § 8542 (a) (emphasis added). Under Section 8542 (b), those "negligent acts" consist of vehicle liability; care, custody or control of personal property; real property; trees, traffic controls and street lighting; utility service facilities; streets; sidewalks; and, care, custody and control of animals. 42 Pa.C.S.A. § 8542 (b). "These exceptions are strictly construed and narrowly interpreted." *Weaver v. Franklin County*, 918 A.2d 194, 200 (Pa. Cmwlth. 2007) (citation omitted).

In the case at bar, Porter alleges a claim of defamation, which is an intentional tort, not a negligent act as defined by the Act. *See*, 42 Pa.C.S.A. § 8542 (a) - (b). Furthermore, Porter's defamation claim does not fall into any of the eight enumerated acts that provide exceptions

to governmental immunity. *Id.*; *Alston v. P.W. Philadelphia Weekly*, 980 A.2d 215 (Pa.Cmwlt. 2009). As such, the Charter School is entitled to immunity.

Despite this law, Porter claims that the Charter School is not immune from liability for an intentional tort. In support, Porter claims that Section 8550 of the Act applies. That section provides the following:

**8550. Willful misconduct**

In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.

42 Pa.C.S.A. § 8550.

In *Petula v. Mellody*, 631 A.2d 762 (Pa. Cmwlt. 1993), the Commonwealth Court dealt with a case similar to the one *sub judice*, i.e. defamation action. The Court noted that:

At the outset, it is clear that the trial court was correct in its holding that the School Districts are immune from suit in a cause of action sounding in defamation. Under the Judicial Code, a school district is defined as a local agency for purposes of governmental immunity. *Goldsborough v. Department of Education*, 576 A.2d 1172 (Pa. Cmwlt. 1990) *aff'd*, 528 Pa. 588, 599 A.2d 645 (1991). Where a plaintiff has averred willful misconduct on the part of local agency employees, Section 8542 (a)(2) of the Judicial Code, 42 Pa.C.S. § 8542 (a)(2), bars recovery from the local agency because liability may be imposed on the local agency only for negligent acts. *City of Philadelphia v. Glim*, 613 A.2d 613 (Pa. Cmwlt. 1992). Furthermore, an action in defamation falls within none of the eight enumerated exceptions to local agency immunity set forth in Section 8542(b), 42 Pa.C.S. § 8542(b). *Goralski*. Moreover, Section 8550, 42 Pa.C.S. § 8550, does not create an exception to Section 8542 and as a result, does not permit the imposition of liability on a local agency for the willful conduct of its employees. *Glim*. The trial court's decision is therefore affirmed to the extent it held the School District immune from suit.

*Petula*, 631 A.2d at 765.

Based upon its review, this Court finds that the Charter School is immune from liability for the alleged defamatory statements made by its employee, Theo Louis Overton. *See also, Palmer v. Bartosh*, 959

A.2d 508, 512 n. 3 (Pa.Cmwlth. 2008); *Weaver, supra*; *Ferber v. City of Philadelphia*, 661 A.2d 470, 475 (Pa. Cmwlth. 1995). Therefore, the Charter School's motion will be granted.

**ORDER**

AND NOW, this 16th day of November, 2009, for the reasons set forth in the accompanying opinion, it is hereby **ORDERED** that Defendant's, Robert Benjamin Wiley Community Charter School, Motion for Judgment on the Pleadings is **GRANTED**.

**BY THE COURT:**

/s/ **ERNEST J. DISANTIS, JR., JUDGE**

**CERTIFICATE OF AUTHORITY**

Notice is hereby given that an Application for Certificate of Authority has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about December 31, 2009, for a foreign corporation with a registered address in the state of Pennsylvania as follows:

Blackwell Consulting Services Inc.  
dba in PA as Blackwell Consulting  
Services of Chicago, Inc.  
c/o Corporate Creations  
Network Inc.

This corporation is incorporated under the laws of Illinois.

The address of its principal office under the laws of its jurisdiction in which it is incorporated is 100 S. Wacker Dr. #800, Chicago, IL 60606.

The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended.

Jan. 22

**CERTIFICATE OF AUTHORITY**

Notice is hereby given that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on December 29, 2009, by Lord New Company 1, Inc., a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 160 Greentree Drive, Suite 101, Dover, DE 19904, for a certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988. The registered office in Pennsylvania is located at c/o Corporate Creations Network Inc., Erie County, Pennsylvania.

Jan. 22

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania Docket No. 15405-09 IN RE: Barbara Cheryl Richmond Notice is hereby given that on

the 30th day of December, 2009, a Petition was filed in the above named Court, requesting an order to change the name of Beulah Cheryl Richmond to Barbara Cheryl Richmond.

The Court has fixed the 26th day of January, 2010 at 10:00 a.m. in Courtroom No. A of the Erie County Court House as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the prayer of the Petitioner should not be granted.

Jan. 22

**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 Fictitious Name: T & C Real Properties
2. The principal place of business to be carried on under the fictitious name is: 5311 Deerfield Drive, Fairview, PA 16415
3. The name and address of the party to the registration is: Charles J. and Theresa C. Paterniti, 5311 Deerfield Drive, Fairview, PA 16415
4. An application for registration of the above fictitious name was filed with the Pennsylvania Department of State under the Fictitious Name Act on: December 14, 2009. Michael G. Nelson, Esquire Marsh Spaeder Baur Spaeder & Schaaf, LLP 300 State Street, Suite 300 Erie, Pennsylvania 16507

Jan. 22

**INCORPORATION NOTICE**

Bethany Outreach Center has been incorporated under the provisions of the Nonprofit Corporation Law of 1988 for the purpose of providing outreach services to the neighborhood community through a food pantry and clothes closet.

Elliott J. Ehrenreich, Esquire  
Knox McLaughlin Gornall &  
Sennett, P.C.  
120 West Tenth Street  
Erie, Pennsylvania 16501-1461  
Jan. 22

**INCORPORATION NOTICE**

Green Sky Textiles, Inc. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988. Knox McLaughlin Gornall & Sennett, P.C. 120 West 10th Street Erie, PA 16501  
Jan. 22

**NOTICE OF ORGANIZATION**

Notice is hereby given that All Seasons Marketplace, LLC has been organized under the provisions of the Business Corporation Law of 1988.

Gery T. Nietupski, Esquire  
Law Offices of Gery T. Nietupski,  
Esquire, LLC  
818 State Street, Suite A  
Erie, Pennsylvania 16501  
Jan. 22

**LEGAL NOTICE**

**NOTICE OF GUARDIANSHIP**  
In the Court of Common Pleas of Erie County, Pennsylvania No. 8 of 2010  
Orphans' Court Division  
In Re: BETTY DARLENE PALUMBO, an alleged incapacitated person  
To: Heirs of Betty Darlene Palumbo  
This notice is to advise you that a Petition for Guardianship has been filed seeking the appointment of a guardian for the above named individual. A hearing on the petition is scheduled for the 1st day of February, 2010, at 2:10 p.m. before Hon. Stephanie Dimitrovich in Court Room G-222 of the Erie County Court House, 140 West Sixth Street, Erie, Pennsylvania 16501.

You do NOT have to attend this hearing if you do not oppose the Petition.

*If you intend to object to the proposed guardianship or otherwise contest this action, you must*

*immediately* send written notice to the assigned Judge and the Family/Orphans' Court Administrator at the Erie County Court House, 140 West Sixth Street, Erie, PA 16501. A copy must also be sent to the attorney for the Petitioner at the address listed below.

Your notice must be filed at least seven (7) days before the hearing.

Elliott J. Ehrenreich, Esquire  
 Knox McLaughlin Gornall  
 & Sennett, P.C.  
 120 West Tenth Street  
 Erie, PA 16501  
 (814) 459-2800  
 Attorney for Petitioner

Jan. 22

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*Mazzei & Associates*  
 ATTORNEYS AT LAW

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**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, January 25, 2010** and confirmed Nisi.

**February 18, 2010** 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>2010</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
3.	Floyd L. Valentine .....	Larry L. Valentine & Sally S. Kemling, Exrs. ....	Knox McLaughlin Gornall & Sennett PC
4.	Evelyn M. Carlson .....	Brenda J. Lichius, Exrx. ....	Darlene M. Vlahos
5.	Mary Pitton Ugino .....	Darlene M. Vlahos, Esq., Exrx. ....	" " "
6.	Robert Joseph Malinowski .....	Lawrence Wolf, Exr. ....	Thomas Spadafore Walker & Keenan LLP

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

Jan. 22, 29

**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**

**BAYHURST, ELIZABETH M.,  
a/k/a ELIZABETH BAYHURST,  
deceased**

Late of Millcreek Township, County of Erie and State of Pennsylvania

*Executrix:* Wendy A. Block, 14404 Serfass Road, Doylestown, OH 44104

*Attorney:* Ronald J. Susmarski, Esq., 4030-36 West Lake Road, Erie, PA 16505

**BURROWS, WALTER, a/k/a  
WALTER R. BURROWS, JR.,  
deceased**

Late of the City of Erie, County of Erie

*Executor:* Ronald Burrows, P.O. Box 141, Elgin, Pennsylvania 16413

*Attorney:* W. Richard Cowell, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

**CASHMAN, ELLA H.,  
deceased**

Late of the Township of Millcreek  
*Executor:* Michael Cashman, 11 Pheasant Lane, Bedford, Massachusetts 01730  
*Attorney:* None

**CHERRY, KATHERINE,  
deceased**

Late of the Township of Millcreek  
*Executor:* William L. Cherry  
*Attorney:* Norman A. Stark, Esquire, The Stark Law Firm, 100 State Street, Suite 210, Erie, PA 16507

**DIBBLE, JOHN F.,  
deceased**

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

*Executrix:* Dorothea A. Dibble, c/o Gary H. Nash, Esq., 345 West Sixth Street, Erie, PA 16507

*Attorney:* Gary H. Nash, Esquire, Yochim & Nash, 345 West Sixth Street, Erie, PA 16507

**FREEMAN, CATHERINE M.,  
deceased**

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

*Executrix:* Ericka M. Freeman, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

*Attorney:* John J. Shimek, III, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**GOTTSCHLING, ROBERT J.,  
deceased**

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

*Executrix:* Roberta K. Gottschling, c/o William J. Schaaf, 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

**McCLIMANS, DIXIE LEE,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania

*Executrix:* Cherokee A. Holewski, 13584 Old Route 19 N., Waterford, PA 16441-3608

*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**MEISER, LOUISE E., a/k/a  
LOUISE ELY MEISER,  
deceased**

Late of Millcreek Township, Erie, PA

*Executor:* Lynette N. Hughes, 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

**MOFFATT, JAMES E.,  
deceased**

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

*Executor:* Craig C. Moffatt, 5227 Amherst Road, Erie, PA 16506

*Attorney:* None

**NEVEL, MINNIE K., a/k/a  
MINNIE KOECK NEVEL, a/k/a  
MINNIE NEVEL,  
deceased**

Late of Millcreek Township, County of Erie and State of Pennsylvania

*Executor:* Richard Koeck, 3820 Chapel Hill Drive, Erie, PA 16506

*Attorney:* Ronald J. Susmarski, Esq., 4030-36 West Lake Road, Erie, PA 16505

**SCHAEFFER, ANDREW, a/k/a  
ANDREW E. SCHAEFFER,  
deceased**

Late of Millcreek Township, County of Erie and State of Pennsylvania

*Executrix:* Suzanne Meyer, 5606 Chilton Lane, Erie, PA 16505

*Attorney:* Ronald J. Susmarski, Esq., 4030-36 West Lake Road, Erie, PA 16505

**SHUMAC, BERNADETTE M.,  
deceased**

Late of the Township of Lawrence Park

*Executrix:* Julie M. Finke, 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

**SIMMONS, SANDRA S.,  
deceased**

Late of the City of Erie, County of Erie, Pennsylvania  
*Executrix:* Mary S. MacDonald, c/o 150 West Fifth St., Erie, PA 16507  
*Attorney:* Colleen C. McCarthy, Esq., McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, PA 16507

**SONNENBERG, SHIRLEY A.,  
deceased**

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Robert C. Sonnenberg  
*Attorney:* Craig A. Zonna, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**TROCKI, JOHN ROBERT, a/k/a  
JOHN R. TROCKI,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Administrator:* Sandra Z. Trocki, c/o 504 State Street, Suite 300, Erie, PA 16501  
*Attorney:* Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**URRARO, FRANK C.,  
deceased**

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Marianne V. Urraro, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508  
*Attorney:* Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**VOGT, HELEN T.,  
deceased**

Late of the Township of Lawrence Park, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* James Vogt, c/o 504 State Street, Suite 300, Erie, PA 16501  
*Attorney:* Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**WARLEY, REITA M.,  
deceased**

Late of the Township of Fairview, County of Erie, State of Pennsylvania  
*Executrix:* Russell L. Warley, 796 Pasadena Drive, Erie, Pennsylvania 16505  
*Attorney:* James R. Steadman, Esq., 24 Main St. E., Girard, Pennsylvania 16417

**ZECH, JOAN I., a/k/a  
JOAN M. ZECH, a/k/a  
JOAN ZECH,  
deceased**

Late of the Township of Millcreek, County of Erie  
*Executrix:* Karen Z. Nuber  
*Attorney:* Michael G. Nelson, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, Pennsylvania 16507

**SECOND PUBLICATION**

**BENSON, ELMER A.,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Robert M. Benson  
*Attorney:* Thomas J. Minarcik, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

**DYLEWSKI, ADAM ROBERT,  
a/k/a ADAM R. DYLEWSKI,  
a/k/a ADAM DYLEWSKI,  
deceased**

Late of the Township of Washington, County of Erie, State of Pennsylvania  
*Administrator:* Robert J. Dylewski, 3631 Leacock Road, Edinboro, Pennsylvania 16412  
*Attorney:* James R. Steadman, Esq., 24 Main St. E., Girard, Pennsylvania 16417

**HUMPHREY, ADELINE B.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Edward D. Coleman, 3209 Georgian Court, Erie, PA 16506  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**KURELOWECH, BERNICE H.,  
deceased**

Late of Wayne Township, County of Erie, Commonwealth of PA  
*Executrix:* Linda M. Bush, 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

**McGREGOR, JOHN JEFFREY  
ROY, a/k/a JOHN J.  
McGREGOR,  
deceased**

Late of Millcreek Township, Erie County, Pennsylvania  
*Executor:* Kevin J. McGregor, 3420 Amherst Road, Erie, PA 16506  
*Attorney:* Randy L. Shapira, Esq., 305 West Sixth Street, Erie, PA 16507

**NEAL, CLARA PIERCE  
CLANTON PAGE,  
deceased**

Late of the Township of Millcreek  
*Administrator:* Ethel M. Simmons  
*Attorney:* Joseph M. Walsh, III, Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 302 West 6th Street, Erie, PA 16507



**PAGLIARI, JOSEPH R., SR.,  
deceased**

Late of the Township of Millcreek, Erie County, Pennsylvania  
*Executrix:* Deborah L. Deimel, 307 French Street, Erie, Pennsylvania 16507-1542  
*Attorney:* Raymond A. Pagliari, Esq., 307 French Street, Erie, Pennsylvania 16507-1542

**WOLFE, BEATRICE I.,  
deceased**

Late of the Borough of Wesleyville, County of Erie, Pennsylvania  
*Executrix:* Joyce Harper, c/o Thomas E. Larson, 2820 W. 23rd St., Suite 101, Erie, PA 16506  
*Attorney:* Thomas E. Larson, Esq., 2820 W. 23rd Street, Suite 101, Erie, PA 16506

**ZANOTELLI, MARY,  
deceased**

Late of the City of Erie, County of Erie, and State of Pennsylvania  
*Executrix:* Agnes Billisits, 2737 West 33rd Street, Erie, PA 16506  
*Attorney:* Stephen A. Tetuan, Esquire, The Stark Firm, 100 State Street, Suite 210, Erie, PA 16507

**THIRD PUBLICATION****BEMISS, E. LUCILLE,  
deceased**

Late of North East Borough, Erie County, North East, Pennsylvania  
*Executrix:* Shirley Thompson, 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

**BURNS, MARY ANN,  
deceased**

Late of Millcreek Township, Erie, PA  
*Executrix:* Susan R. Dunn  
*Attorney:* I. John Dunn, Esquire, The Quinn Law Firm, 2222 West Grandview, Erie, PA 16506

**CROSBY, ROBERT L., SR., a/k/a  
ROBERT LEE CROSBY, SR.,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Henry Holcombe, c/o Jason A. Checque, Esq., 305 West Sixth Street, Erie, PA 16507  
*Attorney:* Jason A. Checque, Esq., Shapira, Hutzelman, Berlin, Ely, Smith & Walsh, 305 West Sixth Street, Erie, PA 16507

**GRYGIER, EDWARD S.,  
deceased**

Late of the Borough of North East, Erie County, Pennsylvania  
*Executrix:* Cynthia G. McMillan, 600 Orchard Beach Road, North East, PA 16428  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**HUNTWORK, GLADYS M.,  
deceased**

Late of Harborcreek Township  
*Executor:* Richard G. Huntwork, 1 Interlachon Lane, Pinehurst, NC 28374  
*Attorney:* Thomas A. Tupitza, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**JEZERINAC, JOSEPH,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* John E. Gomolchak, 3854 Walker Blvd., Erie, PA 16509  
*Attorney:* John E. Gomolchak, Esq., 3854 Walker Blvd., Erie, PA 16509

**LAWRY, JANE M., a/k/a  
MARTHA JANE LAWRY,  
deceased**

Late of the Borough of Edinboro, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Janet Shafer, c/o Ritchie T. Marsh, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP,

Attorneys-at-Law, Suite 300, 300 State Street, Erie, PA 16507

**MEISER, LOUISE E., a/k/a  
LOUISE ELY MEISER,  
deceased**

Late of Summit Township, Erie County, Pennsylvania  
*Executrix:* Lynette N. Hughes, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SCOBEY, CHARLES R., a/k/a  
CHARLES ROBERT SCOBEY,  
deceased**

Late of the Township of Fairview, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Jennifer L. Gimber, c/o Jason A. Checque, Esq., 305 West Sixth Street, Erie, PA 16507  
*Attorney:* Jason A. Checque, Esq., Shapira, Hutzelman, Berlin, Ely, Smith & Walsh, 305 West Sixth Street, Erie, PA 16507

**SPAEDER, VIRGINIA M., a/k/a  
VIRGINIA SPAEDER,  
deceased**

Late of Summit Township, Erie County, Pennsylvania  
*Executrix:* Ann M. Sedlacek, c/o Thomas C. Hoffman II, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Thomas C. Hoffman II, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**TOWER, JACK M., a/k/a  
JACK MILAN TOWER,  
deceased**

Late of Erie, Pennsylvania  
*Executor:* Gregory D. Tower, 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

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