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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

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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 18, 2010

Family Law Update: Recent developments including the adoption of revisions to the Support Guidelines ECBA Live Lunch-n-Learn Seminar Bayfront Convention Center 11:45 a.m. lunch 12:15 p.m. - 1:15 p.m. seminar \$30 (ECBA members/staff) \$45 (nonmembers) 1 hour substantive

#### 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

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# 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)

# **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.



LIVE LUNCH-N-LEARN S E M I N A R presented in cooperation with the ECBA Family Law Section

# Family Law Update: Recent developments including the adoption of revisions to the Support Guidelines

# THURSDAY, FEBRUARY 18, 2010

Bayfront Convention Center 12:15 p.m. - 1:15 p.m. (Lunch @ 11:45 a.m.) \$30 (ECBA members/staff) \$45 (nonmembers)



Presented by: JOSEPH P. MARTONE, ESQUIRE

McCarthy, Martone & Peasley

First Vice Chair, Pennsylvania Bar Association Family Law Section

# Attend this timely seminar to learn about the Pennsylvania Supreme Court's revisions to the Support Guidelines, approved January 13, 2010 and effective May 12, 2010.

# Other subjects to be reviewed include pending and proposed Family Law legislation and rules.

This seminar has been approved by the Pennsylvania CLE Board for *1 hour substantive law credit.*  Reservations are due to the ECBA office by Monday, February 15. You may also register online at www.eriebar.com.

Cancellation Policy:

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

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

# FRANCIS DONALD NAGEL, and DOROTHY NAGEL, Administrators of the Estate of TERRANCE NAGEL, deceased, Plaintiffs,

#### v.

# FALCON TRANSPORT, INC., Defendant,

#### v.

LESTER L. WARD; KUNTZMAN TRUCKING, INC.; CASSANDRA L. BARLOW; TRACY J. CASTOR; PENSKE TRUCK LEASING, CORP.; MICHAEL P. BOLINGER; STERLING EXPRESS, LTD.; JOHN W. LAMBERT; POND BROTHERS TRUCKING, LLC; ERIC E. JIMENEZ; LOGISTIC LEASING, INC.; ROBERT G. SWANTEK; EAGLE EXPRESS LINES, INC.; DICK VANDER-PLOEG; ALLIED SYSTEMS, LTD.; FRANK G. RAEDER; RONALD E. RITCHEY; ADVANTAGE TANK LINES; and the PENNSYLVANIA DEPARTMENT of TRANSPORTATION, Additional Defendants

## CIVIL PROCEDURE / SUMMARY JUDGMENT

Summary judgment is appropriate when the record either demonstrates that there is no genuine issue of material fact as to a necessary element of the cause of action or defense or an adverse party, who bears the burden of proof at trial, has failed to produce evidence of facts essential to their *prima facie* cause of action or defense which would require submission to a jury.

## NEGLIGENCE / CAUSATION

Causation is an element of negligence upon which plaintiff bears the burden of proof.

# NEGLIGENCE / CAUSATION

Causation requires proof of both "cause-in-fact" and proximate cause. *NEGLIGENCE / CAUSATION* 

The Court must determine whether there is sufficient evidence of causation and, if it appears highly extraordinary that the act's conduct should have brought about the harm, the Court must refuse to find causation.

# CIVIL PROCEDURE / SUMMARY JUDGMENT

In motor vehicle accident case, summary judgment in favor of some defendants was appropriate where plaintiff failed to present evidence that moving defendants were connected to motor vehicle accident at issue and record was otherwise devoid of such evidence.

# CIVIL PROCEDURE / SUMMARY JUDGMENT

In motor vehicle accident cases related to interstate collision involving multiple vehicles and accidents, summary judgment was appropriate in favor of defendant driver (and defendant driver's employer) who was involved in collision which occurred behind and subsequent to collision in which plaintiff's decedent was injured when plaintiff presented no

evidence that defendant's actions contributed to plaintiff's injury and record was otherwise devoid of such evidence.

# POLITICAL SUBDIVISIONS / GOVERNMENTAL IMMUNITY

PennDOT has no duty to remove snow and ice from highways or to ensure a highway's design does not facilitate loss of viability in severe weather conditions but it may have a duty to warn travelers of known dangerous conditions affecting those highways.

# SUMMARY JUDGMENT / GOVERNMENTAL IMMUNITY

Question of what constitutes a dangerous condition so as to qualify for exception to sovereign immunity is one of fact for the jury while determination of whether sovereign immunity applies to bar action is one of law to be resolved by Court.

# SUMMARY JUDGMENT / GOVERNMENTAL IMMUNITY

Whether PennDOT's lack of warning regarding weather and road conditions constituted a dangerous condition was a question of fact to be determined by a jury and thus precluded entry of summary judgment in PennDOT's favor based on PennDOT's claim that action was barred by sovereign immunity.

# SUMMARY JUDGMENT / GOVERNMENTAL IMMUNITY

Plaintiff's claim that PennDOT was negligent in failing to design the highway so that it was free of hazardous conditions in the snowstorm was barred by doctrine of sovereign immunity.

# EVIDENCE / EXPERT TESTIMONY

When a party must prove causation through expert testimony, the expert must testify with reasonable certainty that the result in question came from the cause alleged.

# SUMMARY JUDGMENT / EXPERT TESTIMONY

Where only evidence of causation was expert report and expert's only conclusion was that "it is possible" that defendant's negligence caused the injury at issue, summary judgment in favor of defendant was appropriate.

# SUMMARY JUDGMENT / EXPERT TESTIMONY

Expert report that made multiple statements pertaining to defendant's role in motor vehicle accident but which made only two explicit conclusions pertaining to same, both of which conclusions were not made within a reasonable degree of certainty, was inadmissible as evidence and thus would not preclude entry of summary judgment in favor of defendant.

# SUMMARY JUDGMENT / EVIDENCE

In motor vehicle case involving multiple vehicles and impacts, Court would not consider testimony of witness offered against defendant who was operator of white flat-bed truck when witness described vehicle at issue as "a white box-type truck" and whose description otherwise differed from that of defendant's vehicle. Due to obvious discrepancies and contradictions, the Court refused to consider such evidence when

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### ruling on defendant's motion for summary judgment. NEGLIGENCE / OPERATION OF MOTOR VEHICLES

Kicking up of snow and slush is an unavoidable normal hazard of winter driving and does not alone constitute negligence but must be coupled with such other actions (such as speeding) that would create a foreseeable risk of harm.

# NEGLIGENCE / PROXIMATE CAUSE

Excessive speed is not negligence unless there is evidence that it was proximate cause of accident.

# SUMMARY JUDGMENT / PROXIMATE CAUSE

Evidence that defendant driver was driving at excessive speed and kicked up snow and slush that impaired visibility was inadequate to meet plaintiff's burden of proving a *prima facie* case where there was no evidence that defendant's negligence played a role in the accident at issue and therefore summary judgment in favor of defendant was appropriate.

# CIVIL PROCEDURE / SUMMARY JUDGMENT

Defendants who filed summary judgment motions that merely incorporated the arguments contained in motions filed on behalf of other defendants failed to provide facts, argument and law specifically pertinent to the moving parties' role in the action. Because it was apparent that these defendants' circumstances were materially different from those whose motions and argument were incorporated, said motions were denied.

# CIVIL PROCEDURE / SUMMARY JUDGMENT

In case where plaintiff's decedent was in an area where multiple collisions occurred and in context of record in which it was not clear at what point decedent died, testimony to the effect that one of the impacts was caused by movant's negligence was sufficient to present genuine issue of material fact as to whether or not movant's negligence was proximate cause of plaintiff's injuries, thus precluding summary judgment.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA CIVIL DIVISION No. 10700-2007

Appearances: Chad I. Michaelson, Esq., Attorney for Falcon Transport, Inc. James M. Girman, Esq., Attorney for Eric Jimenez and Logistic Leasing, Inc.

- Donna L. Burden, Esq., Attorney for John Lambert and Pond Brothers Trucking, LLC
- William A. Dopierala, Esq., Attorney for the Pennsylvania Department of Transportation
- Craig Murphey, Esq., Attorney for Cassandra Barlow
- John B. Fessler, Esq., Attorney for Tracy Castor and Penske Truck Leasing, Corp.
- Gary N. Stewart, Esq., Attorney for Michael Bolinger and Sterling Express, Ltd.

Sharon L. Bliss, Esq., Attorney for Frank Raeder

J. Eric Barchiesi, Esq., Attorney for Dick Vander-Ploeg and Allied Systems, Ltd.

Frank M. Gianola, Esq., Attorney for Ronald Ritchey and Advantage Tank Lines

- James B. Cole, Esq., Attorney for Francis Donald Nagel and Dorothy Nagel
- Patrick M. Carey, Esq., Attorney for Robert G. Swantek and Eagle Express Lines, Inc.
- David J. Obermeier, Esq., Attorney for Lester L .Ward and Kuntzman Trucking, Inc.

### **OPINION**

Connelly, J., September 22, 2009

This matter is before the Court of Common Pleas of Erie County, Pennsylvania (hereinafter "the Court"), pursuant to Motions for Summary Judgment filed by Cassandra L. Barlow; Tracy J. Castor and Penske Truck Leasing, Corp.; Michael P. Bolinger and Sterling Express, Ltd.; John W. Lambert and Pond Brothers Trucking, L.L.C.; Eric E. Jimenez and Logistic Leasing, Inc.; Dick Vander-Ploeg and Allied Systems Ltd.; Frank G. Raeder; Ronald E. Ritchey and Advantage Tank Lines; as well as the Pennsylvania Department of Transportation (hereinafter "Additional Defendants Barlow, Castor, Penske, Bolinger, Sterling, Lambert, Pond, Jimenez, Logistic, Vander-Ploeg, Allied, Raeder, Ritchey, Advantage, and PennDOT," respectively; "Additional Defendants," collectively).

# Procedural History

Plaintiffs Francis and Dorothy Nagel, as the administrators for the estate of Terrance Nagel, filed their Complaint on April 9, 2007, naming Falcon Transport, Inc. (hereinafter "Defendant Falcon") as the defendant. Complaint, ¶¶ 1-13. On May 22, 2007, Defendant Falcon filed its Answer and New Matter in response, followed by its own June 11, 2007 Complaint against Additional Defendants. Answer and New Matter, ¶¶ 1-20; Complaint to Join Additional Defendants, ¶¶ 1-161. Between July 30, 2007, and June 10, 2008, Additional Defendants consequently filed their respective Answers with New Matters and Crossclaims against one another in response. See, File at C.P. Erie Co. Docket 10700-2007. On March 5, 2008, the Court ordered Erie County Docket Numbers 15000-2007 and 10700-2007 (hereinafter "Companion Case 15000-2007," and "Docket 10700-2007," respectively) consolidated for pretrial and discovery purposes only in response to a Motion requesting the same.<sup>1</sup> Motion to Consolidate Actions, pp. 1-2; Order of the Court, Connelly, J., Mar. 5, 2008.

<sup>&</sup>lt;sup>1</sup> The Court finds "pretrial and discovery purposes" are limited to non-dispositive pre-trial motions and briefs, as well as the sharing of information available to the parties pursuant Pennsylvania Rules of Civil Procedure 4001 *et seq.* 

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All Motions for Summary Judgment before the Court at Docket 10700-2007, as well as all Briefs in Support and in Opposition thereof, were filed in between March 23, 2009, and June 22, 2009.<sup>2</sup> See, File at C.P. Erie County Co. Docket 10700-2007. On April 29, 2009, the named Plaintiff at Companion Case 15000-2007, Yakov Torchinsky, filed Motions to Strike and Briefs in support thereof in response to several Additional Defendants' Motions for Summary Judgment. See, inter alia, Plaintiffs' Motion to Strike Tardy Expert Reports and a Tardy Motion for Summary Judgment, pp. 1-4; Plaintiffs' Brief in Support of Motion to Strike Tardy Expert Report and a Tardy Motion for Summary Judgment, pp. 1-16. The Court shall consider neither these nor any other dispositive Motions and/or Briefs filed by Mr. Torchinsky at Docket 10700-2007 when ruling on the various Motions for Summary Judgment discussed herein.<sup>3</sup>

### **Statement of Facts**

The instant case stems from a motor vehicle accident, which resulted in Terrance Nagel's death (hereinafter "MVA"). See, inter alia, Complaint to Join Additional Defendants, ¶ 38. The MVA involved

<sup>&</sup>lt;sup>2</sup> The Motions for Summary Judgment filed by Additional Defendants Lambert and Pond, Bolinger and Sterling, Vander-Ploeg and Allied, and Ritchey and Advantage, were jointly filed based upon the doctrines of vicarious liability and respondeat superior. The doctrine of respondeat superior imposes vicarious liability upon an employer for its employees' negligent acts resulting in injuries to others when such acts were committed within the "scope of employment." *Costa v Roxborough Mem'l Hosp.*, 708 A.2d 490, 493 (Pa. Super. 1998); *Solomon v. Gibson*, 615 A.2d 367, 371 (Pa. Super. 1992). There is no dispute whether Additional Defendants Lambert, Bolinger, Vander-Ploeg, and Ritchey were acting within the scope of their employment on the date in question. *Lambert Pre-Trial Statement*, *p. 2; Bolinger Pre-Trial Statement*, *p. 1; Vander-Ploeg Pre-Trial Statement*, *p. 2; Ritchey Pre-Trial Statement*, *p. 2*. Therefore, vicarious liability may apply if summary judgment is not granted as to these parties.

<sup>&</sup>lt;sup>3</sup> Civil actions "shall be prosecuted by and in the name of the real party in interest." *Pa.R.C.P. 2002(a).* Pennsylvania Courts have generally defined "real party in interest" as one who not only has the authority to discharge the claims within the lawsuit, but also the authority to control the prosecution brought to enforce those rights arising under the claims, i.e., one that does not merely have an interest in the result of the action, but one that is also in such command of the action as to be legally entitled to give a complete acquittal or a complete discharge to the other party upon performance. Brandywine Heights *Area Sch. Dist. v. Berks County Bd. of Assessment Appeals*, 821 A.2d 1262, 1267 (Pa. Cmwlth. 2003). Those not meeting the *Brandywine* definition of a "real party in interest" may, however, request leave of the Court to intervene if the entry of a judgment in the action would impose liability upon them to indemnify a real party in interest against whom judgment would be entered. See, Pa.R.C.P. 2327(1), 2328(a), 2329. While Mr. Torchinsky is the named plaintiff at Companion Case 15000-2007, the Court finds a simple reading of the pleadings presently before it show Mr. Torchinsky is not a named plaintiff, defendant, or additional defendant at Docket 10700-2007. As such, Mr. Torchinsky has neither the authority to discharge any of the claims under Docket 10700-2007, nor the ability to control the prosecution of such; that is, he is not a real party in interest despite the fact he may have an interest in the result of the action at Docket 10700-2007. Furthermore, though allowed by the Pennsylvania Rules of Civil Procedure, Mr. Torchinsky has not petitioned for or received leave of the Court to intervene in the present matter despite his status as a non-real party in interest at Docket 10700-2007. As such, the Court is legally bound to look upon Mr. Torchinsky's dispositive filings regarding Docket 10700-2007 Motions as if they were never filed thereunder.

vehicles owned and/or operated by Terrance Nagel, Defendant Falcon, or Additional Defendants, and occurred at approximately 12:45 p.m. on January 25, 2007, on Interstate 90 West (hereinafter "I-90W") in Harborcreek Township, Erie County, Pennsylvania. *Id.* It is generally averred the conditions on 1-90W at the time of the accident were snowy with impaired visibility. *See, inter alia, Brief in Opposition to Additional Defendant Pennsylvania Department of Transportation's Motion for Summary Judgment, p. 2.* 

# Analysis of Law

Any party may move for summary judgment, in whole or in part, after the relevant pleadings are closed. *See, Ertel v. The Patriot-News Co.*, 674 A.2d 1038 (Pa. 1996); *cert. denied*, 519 U.S. 1008 (1996). According to the Pennsylvania Rules of Civil Procedure (hereinafter "Civil Rule(s)"), summary judgment is appropriate when the record<sup>4</sup> either demonstrates: no genuine issue of material fact exists as to a necessary element of the cause of action or defense (that could be established by additional discovery or expert report); or an adverse party, who will bear the burden of proof at trial, has failed to produce evidence of facts essential to their *prima facie* cause of action or defense which would require the issues be submitted to a jury.<sup>5</sup> *Pa.R.C.P. 1035.2.* 

It is the burden of the moving party to prove summary judgment is appropriate, and all doubts as to such shall be resolved against the moving party. *Ertel*, 674 A.2d at 1041. However, this is not to say the nonmoving party may rest upon the mere allegations or denials of its pleadings, but it must set forth by affidavit, or otherwise, specific facts showing summary judgment is not appropriate. *See, Id.* at 1042; *Burger v. Owens III., Inc.*, 966 A.2d 611, 619-20 (Pa. Super. 2009).

The Court must not only examine the record in a light most favorable to the nonmoving party, but it must also accept as true all well-pled facts in the nonmoving party's pleadings. *Brecher v. Cutler*, 578 A.2d 481, 483-84 (Pa. Super. 1990); *citing, Green v. K & K Ins. Co.*, 566 A.2d 622, 623 (Pa. 1989). The Court has viewed the record in a light most favorable to the nonmoving parties, and has weighed applicable law as it relates to the facts of this case along with the merit of the arguments presented by each of the moving and nonmoving parties in determining whether summary judgment is proper as a matter of law.

<sup>&</sup>lt;sup>4</sup> The "record" includes: pleadings, depositions, answers to interrogatories, admissions on file, together with the affidavits, and reports signed by an expert witness that would, if filed, comply with Civil Rule 4003.5(a)(1), whether the reports have been produced in response to interrogatories. *Pa.R.C.P. 1035.1.* 

<sup>&</sup>lt;sup>5</sup> In other words, the adverse parties must come forth with evidence showing the existence of the facts essential to their cause of action in order to defeat the Motions for Summary Judgment presently before the Court. *See, Pa.R.C.P. 1035.2, Note.* 

# I. ADDITIONAL DEFENDANTS JIMENEZ AND LOGISTIC'S MOTION FOR SUMMARY JUDGMENT

Additional Defendants Jimenez and Logistic filed an unopposed Motion for Summary Judgment and Brief in Support thereof on March 23, 2009.<sup>6</sup> Motion for Summary Judgment, ¶¶ 1-22; Brief in Support for Summary Judgment, pp. 1-10. They state summary judgment is proper, as no evidence exists to establish Additional Defendant Jimenez negligently operated his vehicle at the time of the MVA, or that Additional Defendant Logistic is vicariously liable for such conduct.<sup>7</sup> Id.

Therefore, in order to determine whether Additional Defendants Jimenez and Logistic are entitled to summary judgment pursuant to Civil Rules 1035.1 *et seq.*, the Court must specifically address whether any adverse party (who will bear the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendants Jimenez and Logistic contained in Defendant Falcon's Complaint at Counts Ten and Eleven.

The Pennsylvania Supreme Court has made it clear each of the following elements of negligence must be met before an actor may be found liable for the injuries of another: (1) the actor owed a duty of care to another; (2) the actor breached that duty; (3) there was causation (i.e., a legal cause) between the actor's conduct and the other's injury; and (4) actual loss or damage to the other exists.<sup>8</sup> *See, R.W. v. Manzek,* 888 A.2d 740, 743-44 (Pa. 2005). While Pennsylvania Courts have had difficulty in defining exactly what constitutes causation, it is axiomatic that "causation involves two separate and distinct concepts, cause-in-fact and legal (or proximate) cause." *Summers v. Giant Food Stores, Inc.,* 743 A.2d 498 (Pa. Super. 1999); *see also, Whitner v. Lojeski,* 263 A.2d

<sup>&</sup>lt;sup>6</sup> The Erie County Local Rules of Civil Procedure provide that "within thirty (30) days of receipt of the moving party's brief, the nonmoving party shall file a brief," and if it fails to do so, the Court may "grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law." *Erie L.R. 1035.2(a),(b)*. Moreover, a proper grant of summary judgment depends upon an evidentiary record showing the material facts are undisputed or contains sufficient evidence of facts to make out a *prima facie* cause of action or defense. *Pa.R.C.P. 1035.2, Note.* Where a motion for summary judgment is based upon insufficient evidence of facts, the adverse party must come forward with evidence essential to preserve the cause of action. *Id.* If the nonmoving party fails to come forward with sufficient evidence to establish or contest a material issue to the case, the moving party is entitled to judgment as a matter of law. *Ertel,* 674 A.2d at 1042; *see also, McCarthy v. Dan Lepore & Sons Co., Inc.,* 724 A.2d 938, 940 (Pa. Super. 1998).

<sup>&</sup>lt;sup>7</sup> Additional Defendants Jimenez and Logistic argue that at no time was Additional Defendant Jimenez acting as an agent, servant or employee of Additional Defendant Logistic. *Brief in Support of Motion for Summary Judgment, pp. 8-9.* The Court finds that whether such a relationship existed is of consequence only if it finds evidence exists that reveals Additional Defendant Jimenez may have acted negligently on the date in question. If not, the issue is of little difference, as Additional Defendant Logistic could not be held vicariously liable for the consequences arising from the Additional Defendant Jimenez's conduct, regardless of the relationship's status.

<sup>&</sup>lt;sup>8</sup> Accordingly, the Court considers the failure to prove any of these elements is fatal to the overall claim of negligence.

889, 894 (Pa. 1970)(holding it is not enough that one's injury would not have occurred had the defendant not acted, but those actions must also have been a substantial factor, i.e., the proximate cause, in bringing about the harm); *Gutteridge v. A.P. Green Servs.*, 804 A.2d 643, 655 (Pa. Super. 2002)(holding "cause-in-fact" is not the same thing as "proximate cause"). As a result, an actor's conduct must be shown to not only have been the cause-in-fact of one's injuries, but must also be shown to have been the proximate cause thereof before the actor may be found liable for that injury. *Hamil, v. Bashline,* 392 A.2d 1280, 1284 (Pa. 1978); *Holt v. Navarro,* 932 A.2d 915 (Pa. Super. 2007)(holding proximate cause does not exist where one's negligence was so remote that he cannot be held legally responsible as a matter of law for the harm done). Essentially, proximate cause is established by the existence of evidence that shows the actor's conduct was a substantial factor in bringing about the other's harm. *Id.; See also, Restatement (Second) Torts § 431(a).* 

For an actor's conduct to be considered a substantial factor in bringing about one's harm, the conduct must have had "such an effect in producing the harm as to lead reasonable men to regard it as a cause, using that word in the popular sense," and it is within the Court's purview to establish whether reasonable minds would determine such, so long as there exists no facts controverting the conduct's effect in producing the harm. Daniel v. William R. Drach Co., Inc., 849 A.2d 1265 (Pa. Super. 2004); Merritt v. City of Chester, 496 A.2d 1220 (Pa. Super. 1985) (holding the Court must determine whether the injury would have been viewed by an ordinary person as the natural and probable outcome of the actor's conduct). In doing so, if "it appears . . . highly extraordinary the actor's conduct should have brought about the harm," the Court must refuse to find the actor's conduct was the proximate cause of the other's harm. Brown v. Phila. College of Osteopathic Medicine, 760 A.2d 863, 868 (Pa. Super. 2000); quoting, Bell v. Irace, 619 A.2d 365 (Pa. Super. 1993). Thus, proximate cause "must be established, before the question of actual cause, i.e., "cause-in-fact," may be put to the jury." Reilly v. Tiergarten, 633 A.2d 208, 210 (Pa. Super. 1993).

As Additional Defendants Jimenez and Logistic's Motion is unopposed, there is little evidence that has been presented before the Court. However, while the amount of evidence may be slight, it clearly exists in the form of the deposed testimony of Corporal Michael Fox (hereinafter "Cpl. Fox") of the Pennsylvania State Police (hereinafter "PSP"). According to Cpl. Fox, Additional Defendant Jimenez was involved only in an accident with Additional Defendant Lambert, which was wholly separate from the MVA. *Brief in Support of Motion for Summary Judgment, pp. 2-5.* 

The Court finds Additional Defendant Jimenez's conduct could not have been the proximate cause of the MVA; therefore, the question of actual cause need not be presented to the jury. This finding is predicated upon the fact that not only has Cpl. Fox reasonably determined Additional Defendant Jimenez was not involved (substantially or otherwise) in bringing about the MVA, but also no other party has presented facts or evidence to refute such a determination. As such, neither Additional Defendant Jimenez nor Logistic can be found negligent in causing the MVA. Additional Defendants Jimenez and Logistic's Motion is therefore granted, as no party has produced essential evidence that reveals a causal connection between their actions and the MVA.

# II. ADDITIONAL DEFENDANTS LAMBERT AND POND'S MOTION FOR SUMMARY JUDGMENT

Additional Defendants Lambert and Pond also filed an unopposed Motion for Summary Judgment and Brief in Support thereof on March 30, 2009, stating summary judgment is proper as no evidence exists to establish Additional Defendant Lambert negligently operated his vehicle at the time of the MVA.<sup>9</sup> *Motion for Summary Judgment*, ¶¶ *1-28; Brief in Support of Motion for Summary Judgment, pp. 1-6.* 

Therefore, in order to determine whether Additional Defendants Lambert and Pond are entitled to summary judgment pursuant to Civil Rules 1035.1 *et seq.*, the Court must specifically address whether any adverse party (who will bear the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendants Lambert and Pond contained in Defendant Falcon's Complaint at Counts Eight and Nine.

As stated, proximate cause between an actors conduct and another's injury must be established before the actor may be found liable for those injuries, and such cause is established by evidence reasonably showing the actor's conduct was a substantial factor in bringing about the injury. *See, R.W.,* 888 A.2d at 743-44; *Hamil,* 392 A.2d at 1284; *Whitner,* 263 A.2d at 894; *Daniel,* 849 A.2d 1265; *Holt,* 932 A.2d 915; *Summers,* 743 A.2d 498. As proximate cause must be established before the question of actual cause may be put to a jury, the Court (provided the record is void of facts which controvert the existence of such cause) must preliminarily determine whether reasonable minds are able to regard the actor's conduct was the legal cause of harm if it appears highly extraordinary the actor's conduct substantially brought about the harm. *Id.; see, Daniel,* 849 A.2d 1265; *Brown,* 760 A.2d at 868; *Reilly,* 633 A.2d at 210; *Merritt,* 496 A.2d 1220.

Again, there is little evidence before the Court as Additional Defendants Lambert and Pond's Motion is also unopposed. However, while the amount of evidence is slight, it clearly exists in the form of the

<sup>9</sup> See, n.6, supra.

deposed testimony of Trooper James Kloss (hereinafter "Tpr. Kloss") of the PSP. According to Tpr. Kloss, Additional Defendant Lambert was operating a tractor-trailer in the scope of his employment with Additional Defendant Pond at the time of the MVA when the vehicle came to rest in the median of I-90W after Additional Defendant Lambert attempted an evasive maneuver to avoid the MVA, which was in front of him. Motion for Summary Judgment, Ex. D, pp. 142-143. Tpr. Kloss further states Additional Defendant Lambert's vehicle did not strike any vehicles, but was subsequently involved in a separate accident when his tractor-trailer was struck from behind by the one driven by Additional Defendant Jimenez. Id. at 139-140. Moreover, Tpr. Kloss testified that based upon his investigation, he believed no conduct on the part of Additional Defendant Lambert contributed to the fatal injuries sustained by Terrance Nagel. Id. at 142-143.

The Court finds such conduct could not have been the proximate cause of the MVA; therefore, the question of actual cause need not be presented to the jury. Not only has Tpr. Kloss reasonably determined Additional Defendant Lambert's conduct was not a factor (substantial or otherwise) in bringing about the MVA, but no other party has presented facts or evidence to refute such a determination. As such, neither Additional Defendant Lambert nor Pond can be found negligent in causing the MVA. Additional Defendants Lambert and Pond's Motion is therefore granted as no party has produced essential evidence that reveals a causal connection between their conduct and the MVA

# **III. ADDITIONAL DEFENDANT PENNDOT'S MOTION FOR** SUMMARY JUDGMENT

Additional Defendant PennDOT filed its Motion for Summary Judgment and Brief in Support thereof on March 31, 2009, stating summary judgment is proper as Defendant Falcon failed to state a cause of action that falls within the exceptions to sovereign immunity. Motion for Summary Judgment and Proposed Order of Court, ¶¶ 1-27; Brief in Support of Motion for Summary Judgment, pp. 9-18. Defendant Falcon filed its Brief in Opposition on April 29, 2009, claiming sovereign immunity has been waived as Additional Defendant PennDOT not only failed to warn drivers of dangerous conditions existing on its roadways, but that such a failure created a "dangerous condition" in and of itself. Briefs in Opposition to Additional Defendant Pennsylvania Department of Transportation's Motion for Summary Judgment, pp. 1-11. On May 1, 2009, Defendant Falcon filed a Brief in Opposition identical to its April 29, 2009 Brief. Id.

In order to determine whether Additional Defendant PennDOT is entitled to summary judgment pursuant to Civil Rules 1035.1 et seq., the Court must specifically address if a genuine issue of material fact exists as to whether Additional Defendant PennDOT may raise the defense Nagel v. Falcon Transport, Inc. v. Ward, Kuntzman Trucking, Inc., et al.

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of sovereign immunity to claims for damages that were caused by "a dangerous condition of Commonwealth agency real estate and sidewalks, including . . . highways under the jurisdiction of a Commonwealth agency," except [for] conditions . . . created by potholes or sinkholes or other similar conditions created by natural elements." 42 Pa.C.S. § 8522(b)(4),(5).

Additional Defendant PennDOT has no duty to remove snow and ice from highways within the Commonwealth or to ensure a highway's design does not facilitate loss of viability in severe snow, etc., but it may have a duty to warn travelers of known dangerous conditions affecting those highways. Kahres v. PennDOT, 801 A.2d 650, 654 (Pa. Cmwlth. 2002)(holding an alleged failure to plow snow from road did not fall within highways exception to sovereign immunity); Kosmack v. Jones, 807 A.2d 927, 933 (Pa. Cmwlth. 2002)(holding allegations a road was improperly designed does not fall within the real estate exceptions to sovereign immunity as adverse weather conditions do not derive, originate from, or have as their source the road itself); Young v. Commonwealth of Pennsylvania, 714 A.2d 475 (Pa. Cmwlth. 1998) (holding whether the failure to place warning signs of a dangerous condition creates a dangerous condition upon a highway is a question of fact to be decided by a jury);<sup>10</sup> rev'd on other grounds, Young v. Commonwealth of Pennsylvania, 744 A.2d 1276 (Pa. 2000).

A question of what constitutes a dangerous condition is one of fact, and should be left for the jury to decide. Bendas v. Township of White Deer, 611 A.2d 1184, 1187 (Pa. 1992). However, the determination of whether an action is barred by sovereign immunity is entirely a matter of law. Le-Nature's Inc. v. Latrobe Munic. Auth., 913 A.2d 988, 994 (Pa. Cmwlth. 2006); citing, Taylor v. Jackson, 643 A.2d 771 (Pa. Cmwlth. 1994). While only the Court may determine whether Defendant Falcon's action is barred by sovereign immunity - as such is a matter of law it finds it is judicially advantageous to refrain from doing so before a jury is able to determine whether Additional Defendant PennDOT's lack of warning regarding the weather and road conditions constituted a dangerous condition on I-90W, in and of itself. Therefore, summary judgment is inappropriate as genuine issues of material fact remain as to whether Additional Defendant PennDOT may claim sovereign immunity, that is whether it failed to adequately warn motorists of the roadway's condition at the location of the MVA, i.e., Count Nineteen of Defendant Falcon's Complaint at Paragraph 158(b). Complaint to Join Additional Defendants, ¶ 158(b).

<sup>&</sup>lt;sup>10</sup> The Commonwealth Court in *Young* reasoned because the Commonwealth does have a duty to make its highways reasonably safe for their intended purpose, and because the fact finder is to determine whether the alleged conditions are dangerous, a grant of summary judgment was not appropriate. *Young*, 714 A.2d at 479.

Defendant Falcon further alleges Additional Defendant PennDOT was negligent in "failing to properly design, inspect, and maintain [1-90W] so that it was free from hazardous conditions; failing to properly respond to the road conditions existing at the time [of the MVA]; failing to keep [I-90W] reasonably safe for travel at the time and location of the [MVA]; and failing to properly salt and maintain [I-90W]." Id. at 158(a),(c),(d),(e). Pursuant to Kahres and Kosmack, supra, Additional Defendant PennDOT neither had a duty to remove snow and ice from highways located within the Commonwealth, nor a duty to ensure the highway was properly designed and inspected as the snow and ice did not derive, originate from, or have its source in the highway itself. As Additional Defendant PennDOT is not bound by such a duty, no genuine issues of material fact exists as to whether Additional Defendant PennDOT may claim sovereign immunity against these claims, and summary judgment is granted as to Count Nineteen, Paragraph 158(a), (c), (d), and (e), of Defendant Falcon's Complaint.

# IV. ADDITIONAL DEFENDANT BARLOW'S MOTION FOR SUMMARY JUDGMENT

Additional Defendant Barlow filed her Motion for Summary Judgment and Brief in Support thereof on April 3, 2009, stating summary judgment is proper as no party identified admissible evidence sufficient to prove the MVA was proximately caused by her conduct. Motion for Summary Judgment on Behalf of Additional Defendant Cassandra L. Barlow, ¶¶ 1-26; Brief in Support of Motion for Summary Judgment Filed by Additional Defendant Cassandra L. Barlow, pp. 1-9. Lester L. Ward and Kuntzman Trucking, Inc. (hereinafter "Additional Defendants Ward and Kuntzman") filed a Brief in Opposition to Additional Defendant Barlow's Motion on May 4, 2009, stating such evidence exists in the form of an accident reconstruction report filed by their expert, Sebastian van Nooten (hereinafter "Mr. van Nooten"), which sets forth compelling evidence to establish a prima facie case of negligence against Additional Defendant Barlow. Brief in Opposition to Additional Defendant Cassandra L. Barlow's Motion for Summary Judgment, p. 1. Defendant Falcon's Brief incorporates Additional Defendants Ward and Kuntzman's by reference. Brief in Opposition to Additional Defendant Cassandra Barlow's Motion for Summary Judgment, p. 1. Additional Defendant Barlow filed a Reply Brief on May 14, 2009, asserting the report is inadmissible and summary judgment is therefore appropriate as no party can identify admissible evidence sufficient to prove the MVA was proximately caused by her conduct. Reply to Briefs in Opposition to Additional Defendant Cassandra L. Barlow's Motion for Summary Judgment, pp. 1-11.

Therefore, in order to determine whether Additional Defendant Barlow is entitled to summary judgment pursuant to Civil Rules 1035.1 et seq., the Court must address whether any adverse party (who will bear

the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendant Barlow contained in Defendant Falcon's Complaint at Count One. Specifically, whether the sole evidence produced in an attempt to establish such a connection, i.e., Mr. van Nooten's report, is admissible.<sup>11</sup>

In order for testimony by an expert witness to be admissible, the expert witness must assert with reasonable certainty that the result in question came from the cause alleged. McCrosson v. Philadelphia Rapid Transit Co., 129 A. 568, 569 (Pa. 1925); Childers v. Power Line Equipment Rentals, Inc., 681 A.2d 201, 209 (Pa. Super. 1996), allocatur denied, 690 A.2d 236 (Pa. 1997). In other words, when a party must prove causation through expert testimony, the expert must testify with 'reasonable certainty' that 'in his professional opinion,' the result in question came from the cause alleged. Cohen v. Albert Einstein Medical Center, 592 A.2d 720, 723 (Pa.Super.1991)(citations omitted). "An expert fails this standard of certainty if he testifies that the alleged cause 'possibly,' or 'could have' led to the result, that it 'could very properly account' for the result, or even that it was 'very highly probable' that it caused the result." Kravinsky v. Glover, 396 A.2d 1349, 1356 (Pa. Super. 1979). An expert's failure to express an opinion with the requisite certainty makes summary judgment proper. Gartland v. Rosenthal, 850 A.2d 671, 677 (Pa. Super. 2004), allocatur denied, 936 A.2d 41 (Pa. 2007).

Additional Defendants Ward and Kuntzman claim Mr. van Nooten concluded "the front-end damage to [Additional Defendant Barlow's] vehicle was not indicative of an impact speed of fifty (50) m.p.h," which shows "[she] drove into [Additional Defendant Castor] on [her] own accord, and not pushed." *Brief in Opposition to Additional Defendant Cassandra L. Barlow's Motion for Summary Judgment, pp. 4-5.* While Additional Defendants Ward and Kuntzman state these are Mr. van Nooten's conclusions, a reading of the expert report reveals that while such statements were made, they were not conclusive in nature.

Mr. van Nooten offers the portion of the MVA involving Additional Defendants Barlow and Ward may have happened one of two ways: one, Additional Defendant Barlow struck Additional Defendant Castor and was subsequently hit by Additional Defendant Ward; or two, Additional

<sup>&</sup>lt;sup>11</sup> Although the only evidence offered to refute Additional Defendant Barlow's Motion and show any negligence on her part is the expert report, Additional Defendants Ward and Kuntzman also aver that judgment is improper because she failed to produce expert reports or testimony to corroborate her argument. *Brief in Opposition to Additional Defendant Cassandra L. Barlow's Motion for Summary Judgment, pp. 5-6.* This argument is flawed. As Additional Defendant Barlow filed her Motion asserting a lack of evidence regarding negligence, the burden shifted to Additional Defendants Ward and Kuntzman, along with Defendant Falcon, to present such evidence; *See, Ertel,* 674 A.2d at 1041-42(holding while it is the burden of the moving party to prove that no genuine issue of material fact exists, genuine issue for trial).

Defendant Ward hit Additional Defendant Barlow, pushing her into Additional Defendant Castor. *Id. at Ex. A, pp. 10-18.* While Mr. van Nooten makes statements in support of either course of events, he makes only one explicit conclusion throughout his entire report: "it is possible the impact between [Additional Defendant Barlow] and [Additional Defendant Castor] occurred prior to [Additional Defendant Ward] striking [Additional Defendant Barlow]." *Id. at p. 24(emphasis added).* 

Determining whether statements made by an expert, such as Mr. van Nooten, are conclusions is not merely an exercise in semantics. *Childers v. Power Line Equipment Rentals, Inc.*, 681 A.2d 201, 210 (Pa. Super. 1996). As such, the Court must take statements made by an expert at their face value. Mr. van Nooten unambiguously makes one, and only one, explicit conclusion within his report regarding Additional Defendant Barlow. And, that conclusion is she may possibly be a proximate cause of the MVA. Mr. van Nooten must be able to testify within a reasonable professional certainty that Additional Defendant Barlow's alleged negligence was a proximate cause of the MVA, and he fails in this standard if he can only testify her actions "possibly" or "could have" led to that result. *Cohen, 592* A.2d at 723; *Kravinsky*, 396 A.2d at 1356.

The Court finds that Mr. van Nooten's report is inadmissible as to Additional Defendant Barlow as he failed to testify within a legally defined degree of reasonable certainty that, in his professional opinion, her actions were a proximate cause of the MVA. Therefore, Additional Defendant Barlow's Motion is granted as no party has identified any sufficient and admissible evidence that reveals a causal connection between Additional Defendant Barlow's conduct and the MVA.

# V. ADDITIONAL DEFENDANTS CASTOR AND PENSKE'S MOTION FOR SUMMARY JUDGMENT

Additional Defendants Castor and Penske filed their Motion for Summary Judgment and Brief in Support thereof on April 22, 2009, stating summary judgment is proper as no party has produced any evidence to establish any causal connection between Terrance Nagel's death and Additional Defendants Castor and Penske's conduct.<sup>12</sup> Motion for Summary Judgment on Behalf of Additional Defendants, Tracy J. Castor and Penske Truck Leasing Corp., ¶¶ 1-37; Brief in Support of Motion for Summary Judgment on Behalf of Additional Defendants, Tracy J. Castor and Penske Truck Leasing Corp., pp. 1-10. Additional Defendants Ward and Kuntzman filed a Brief in Opposition to Additional

<sup>&</sup>lt;sup>12</sup> The Court finds that whether a relationship exists between Additional Defendants Castor and Penske, that would raise the issue of vicarious liability, is of consequence only if it finds evidence exists that reveals Additional Defendant Castor may have acted negligently on the date in question. If not, the issue is of little difference, as Additional Defendant Penske could not be held vicariously liable for the consequences arising from the conduct, regardless of the relationship's status.

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Defendants Castor and Penske's Motion on May 22, 2009, stating such evidence exists in the form of Mr. van Nooten's expert report stating she was stopped on the highway and was a "blocking vehicle" which "triggered" the MVA.13 Brief in Opposition to Additional Defendant Tracy J. Castor and Penske Truck Leasing Corporation's Motion for Summary Judgment, pp. 1-7. Defendant Falcon's Brief incorporates Additional Defendants Ward and Kuntzman's by reference. Brief in Opposition to the Motion for Summary Judgment Filed by Additional Defendants Tracy J. Castor and Penske Truck Leasing Corporation, p. 1. Additional Defendants Castor and Penske filed a Reply Brief on June 22, 2009, asserting the report is inadmissible and summary judgment is therefore appropriate as no party can identify admissible evidence sufficient to prove the MVA was proximately caused by their conduct. Reply to Brief in Opposition to Motion for Summary Judgment of Additional Defendants Tracy J. Castor and Penske Truck Leasing Corp., pp. 1-11.

Therefore, in order to determine whether Additional Defendants Castor and Penske are entitled to summary judgment pursuant to Civil Rules 1035.1 *et seq.*, the Court must address whether any adverse party (who will bear the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendants Castor and Penske contained in Defendant Falcon's Complaint at Counts Four and Five. Specifically, whether the sole evidence produced in an attempt to establish such a connection, i.e., Mr. van Nooten's report, is admissible.

The Court has already noted that in order for expert testimony to be admissible, the expert must clearly assert with reasonable certainty the result in question came from the cause alleged as based on his professional opinion, and the expert fails in this standard if he asserts the alleged cause possibly, could have, etc. led to the result. *See, McCrosson,* 129 A. at 569; *Childers,* 681 A.2d at 210; *Cohen,* 592 A.2d at 723; *Kravinsky,* 396 A.2d at 1356.

Additional Defendants Ward and Kuntzman claim Mr. van Nooten, opined it is "far more likely [Additional Defendant Castor] was stopped on the road when [she] was hit from behind by [Additional Defendant Barlow]." *Brief in Opposition to the Motion for Summary Judgment Filed by Additional Defendants Tracy J. Castor and Penske Truck Leasing Corporation, p. 5.* Thus, according to Additional Defendants Ward and Kuntzman, there is compelling evidence that she stopped her vehicle on the road and became a blocking vehicle for approaching traffic. *Id. at* 

<sup>&</sup>lt;sup>13</sup> Additional Defendants Ward and Kuntzman also aver that summary judgment is improper because Additional Defendants Castor and Penske failed to produce any expert reports or expert testimony to corroborate their version of the accident. *Brief in Opposition* to Additional Defendant Tracy J. Castor and Penske Truck Leasing Corporation's Motion for Summary Judgment, pp. 5-6. However, this argument is flawed for the reasons stated by the Court at footnote 11, *supra*.

6. Finally, Additional Defendants Ward and Kuntzman conclude, "this conduct led to the rear-end collision between [Additional Defendants Barlow and Castor] which was the trigger impact that caused the [MVA]." *Id.* However, a reading of the expert report shows Mr. van Nooten never made such statements. *See, Id. at Ex. A.* While not an exhaustive list, Mr. van Nooten's statements regarding Additional Defendant Castor include the following, and each is indicative of the whole:

[Additional Defendant] Castor stated that she was operating a 2006 GMC Savana moving van (Unit 3) owned by [Additional Defendant] Penske. She was in the right-hand lane traveling at about 20-25 mph when she noticed a car in front of her slowing to a stop . . . She braked and slid to the right but did not impact the vehicle in front of her . . . She was impacted hard from behind and her vehicle traveled into the median.

In this scenario [one of a possible two], the physical evidence cannot support that [Additional Defendant Barlow] was first impacted by [Additional Defendant Ward] and then immediately thereafter impacted the rear of [Additional Defendant Castor's] nearly stopped or stopped . . . truck.

[Additional Defendant] Ward has no recollection of seeing [Additional Defendant Castor's] truck. The Large yellow rear of [Additional Defendant Castor's] truck would have been quite conspicuous, even in a snowstorm, to [Additional Defendant] Ward had it been directly in front of [Additional Defendant Barlow].

[Additional Defendant Castor] testified that she was impacted when on the right shoulder, [but] she could not have been on the right shoulder when she was impacted when we consider the damage to the rear of [her vehicle] and the front of [Additional Defendant Barlow's].

[Additional Defendant] Castor describes skidding to a stop and moving right to avoid the slowing car that stopped in the right lane. If [Additional Defendant] Castor had been impacted immediately after coming to rest on the right shoulder, we would expect that the unknown vehicle that she describes would have been involved in the collision with her.

# Id. at pp. 5, 10, 13, 16-17.

It is apparent that a reading of the report fails to uncover any statements made by Mr. van Nooten that claim, as Additional Defendants Ward

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and Kuntzman state, Additional Defendant Castor became a "blocking vehicle," (permanent or otherwise) which caused her to become a party to the "trigger impact" of the MVA. Id. Such an absence leads the Court to determine statements naming Additional Defendant Castor as a negligent "blocking vehicle" are not conclusions of Mr. van Nooten, but conclusions of Additional Defendants Ward and Kuntzman based on their own reading of the van Nooten Report. In fact, Mr. van Nooten makes only two explicit conclusions throughout his entire report as to Additional Defendant Castor's role in the MVA. The first is that Additional Defendant Castor "stated she was slowing for a vehicle that had stopped, [and] this vehicle is also not reported and may have been stopped for the tractor-trailer that was seen by Mr. Bolinger and Mr. Lambert." Id. at 24. The second conclusion states, "it is possible the impact between [Additional Defendants Barlow and Castor] occurred prior to [Additional Defendant Ward] striking [Additional Defendant Barlow]." Id.

The Court has already stated that determining whether statements made by an expert does not merely rest on semantics, but instead, the Court must take such statements at face value. *See, Childers, supra.* While Mr. van Nooten makes several statements regarding Additional Defendant Castor, he makes two, and only two, explicit conclusions. Neither of these conclusions indicates, in the slightest, that Mr. van Nooten found, within a reasonable degree of professional certainty that Additional Defendant Castor's conduct led to her becoming a blocking vehicle, which proximately triggered the MVA.

The Court finds that as Mr. van Nooten has not testified within a legally defined degree of reasonable certainty that, in his professional opinion, Additional Defendant Castor's actions were a proximate cause of the MVA, his report is inadmissible as to Additional Defendant Castor. Therefore, Additional Defendants Castor and Penske's Motion is granted as no party has identified any sufficient and admissible evidence that reveals a causal connection between Additional Defendants Castor and Penske's conduct and the MVA.

# VI. ADDITIONAL DEFENDANTS BOLINGER AND STERLING'S MOTION FOR SUMMARY JUDGMENT

Additional Defendants Bolinger and Sterling filed their Motion for Summary Judgment and Brief in Support thereof on May 11, 2009, stating summary judgment is proper as no party can identify admissible evidence sufficient to show the MVA was proximately caused by their alleged negligence. *Motion for Summary Judgment*, ¶¶ 1-41; Brief in Support of Motion for Summary Judgment, pp. 1-9. Additional Defendants Ward and Kuntzman, along with Defendant Falcon, filed Briefs in Opposition to Additional Defendants Bolinger and Sterling's Motion on June 5, 2009, and June 8, 2009, respectively, stating there

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is compelling circumstantial evidence in the record to show Additional Defendant Bolinger negligently operated one of the vehicles that triggered the MVA.<sup>14</sup> Brief in Opposition to Additional Defendants Michael P. Bolinger and Sterling Express' Motion for Summary Judgment, pp. 1-7; Brief in Opposition to the Motion for Summary Judgment Filed by Additional Defendants Michael P. Bolinger and Sterling Express, Ltd., p. 1. Additional Defendants Bolinger and Sterling filed a Reply Brief on June 16, 2009. Reply Brief of Additional Defendant Michael Bolinger and Sterling Express, Ltd. To Additional Defendant Ward and Kuntzman Trucking's Brief in Opposition to Motion for Summary Judgment, pp. 1-6. Therefore, in order to determine whether Additional Defendants Bolinger and Sterling are entitled to summary judgment pursuant to Civil Rules 1035.1 et seq., the Court must specifically address whether any adverse party (who will bear the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendants Bolinger and Sterling contained in Defendant Falcon's Complaint at Counts Six and Seven.

Additional Defendant Barlow testified at her deposition that as she was driving down a hill shortly before the MVA, she was passed by a "semi truck" with a "white box trailer" on the left that was going quickly "[1]ike, maybe [fifty-five (55) m.p.h.]" *Brief in Opposition to Additional Defendants Michael P. Bolinger and Sterling Express' Motion for Summary Judgment, Ex. B, pp. 22, 25.* She also testified that the truck, after passing her, "started to, like, fishtail almost, and that's why [she] stopped." *Id.* Moreover, she indicated she thought that it was after the truck started to fishtail when Additional Defendant Castor applied her brakes, and that was the predicate for her own braking to slow her vehicle down. *Id. at p. 23.* 

Additional Defendants Bolinger and Sterling assert the truck described by Additional Defendant Barlow could not possibly be the one driven by Additional Defendant Bolinger as she had first described the truck to the police as one with a dark-colored cab.<sup>15</sup> *Reply Brief of Additional Defendant Michael Bolinger and Sterling Express, Ltd. To Additional Defendant Ward and Kuntzman Trucking's Brief in Opposition to Motion for Summary Judgment, Ex. B.* Furthermore, Additional Defendant Barlow also stated she did not recall the color of the truck with the

<sup>&</sup>lt;sup>14</sup> Unlike their opposition to Additional Defendants Castor, Penske, and Barlow's Motions, where they relied solely upon an inadmissible report of an expert to present the existence of genuine issues of material facts, Additional Defendants Ward and Kuntzman present to the Court that they are relying on statements made in depositions of Additional Defendant Barlow and Ward to support their claim that Additional Defendant Bolinger played a substantial role in causing the MVA.

<sup>&</sup>lt;sup>15</sup> Additional Defendant Bolinger indicates the truck driven by him was in fact a flatbed truck with a white cab with striping down its side. *Reply Brief of Michael P. Bolinger and Sterling Express, Ltd. To Additional Defendant Ward and Kuntzman Trucking's Brief in Opposition to Motion for Summary Judgment, p. 4, Ex. D.* 

white box trailer's cab. Brief in Opposition to Additional Defendants Michael P. Bolinger and Sterling Express' Motion for Summary Judgment, Ex. B, p. 22. Moreover, Additional Defendant Barlow also testified she saw a white box trailer fishtailing rather than a flatbed truck. Reply Brief of Additional Defendant Michael Bolinger and Sterling Express, Ltd. To Additional Defendant Ward and Kuntzman Trucking's Brief in Opposition to Motion for Summary Judgment, p. 3.

Here, the truck described by Additional Defendant Barlow (in a variety of ways) is quite different from the white flatbed truck driven by Additional Defendant Bolinger. On one hand, Additional Defendant Barlow testified the truck she saw was a white box-type truck rather than a flatbed truck. The Court finds this is quite a large distinction, and the difference between the two would be apparent even in a limited visibility situation. Additional Defendant Barlow also told police just after the accident (when her recollection would be the most fresh) that the truck she saw had a dark-colored cab, unlike Additional Defendant Bolinger's light-colored white truck. Because of the obvious contradictions and discrepancies amidst Additional Defendant Barlow's testimonial description of Additional Defendant Bolinger's truck, the Court cannot consider the deposition testimony of Additional Defendant Barlow as circumstantial evidence of Additional Defendant Bolinger's alleged negligence. Therefore, the only credible circumstantial evidence of Additional Defendants Bolinger and Sterling's alleged negligence is the remaining testimony of Additional Defendant Ward.

At his deposition, Additional Defendant Ward testified he saw a flatbed truck with a beige or white striped cab pass his vehicle in the left lane prior to the MVA. *Brief in Opposition to Additional Defendants Michael P. Bolinger and Sterling Express' Motion for Summary Judgment, Ex. C, p. 38.* Defendant Ward also testified that he was driving between forty-five (45) and fifty (50) m.p.h. when the semi passed him. *Id. at 39.* He further states, "just right after the other truck passed me, then it was kind of like a wall, you know, where I said he was kicking up more snow and stuff. And then it probably wasn't three seconds. Once it started clearing out a little bit, I seen the brake lights." *Id. at 40.* 

Additional Defendants Bolinger and Sterling argue the mere fact that a vehicle may have kicked up snow causing visual impairment does not create any form of negligence upon that vehicle, and rely on the Pennsylvania Supreme Court case of *Metts v. Griglak* to make this argument. *Metts v. Griglak*, 264 A.2d 684 (Pa. 1970)(holding the kicking up of snow and slush is an unavoidable normal hazard of winter driving and cannot alone constitute negligence, but must be coupled with such actions, e.g., excessive speeding, that would create a foreseeable risk of harm). Therefore, in order to establish liability on the part of Additional

Defendant Bolinger it must be shown he was driving at excessive speeds and such speeds were the proximate cause of the MVA. *See, Rhoads v. Ford Motor Co.,* 514 F.2d 931 (3d. Cir. Pa. 1975)(holding speeding in excess of statutory limit is not negligence unless such speed was the proximate cause of accident).

As stated, proximate cause between an actor's conduct and another's injury must be established before the actor may be found liable for those injuries, and such cause is established by evidence reasonably showing the actor's conduct was a substantial factor in bringing about the injury. *See, R. W.,* 888 A.2d at 743-44; *Hamil,* 392 A.2d at 1284; *Whitner,* 263 A.2d at 894; *Daniel,* 849 A.2d 1265; *Holt,* 932 A.2d 915; Summers, 743 A.2d 498. As proximate cause must be established before the question of actual cause may be put to a jury, the Court (provided the record is void of facts which controvert the existence of such cause) must preliminarily determine whether reasonable minds are able to regard the actor's conduct was the legal cause of harm if it appears highly extraordinary the actor's conduct substantially brought about the harm. *Id.; see, Daniel,* 849 A.2d 1265; *Brown,* 760 A.2d at 868; *Reilly,* 633 A.2d at 210; *Merritt,* 496 A.2d 1220.

Here, neither Additional Defendants Ward and Kuntzman, nor Defendant Falcon, have provided any evidence, except the testimony of Additional Defendant Ward to demonstrate Additional Defendant Bolinger played any role in the MVA. And, Additional Defendant Ward's testimony simply states the consequences of Additional Defendant Bolinger's actions were merely limited to the kicking up of snow, which is not considered negligence in and of itself pursuant to Metts. In fact, Additional Defendant Bolinger's testimony and the police report indicate that Additional Defendant Bolinger only became a part of the MVA when he swerved to avoid the other disabled vehicles already involved. Brief in Opposition to Additional Defendants Michael P. Bolinger and Sterling Express' Motion for Summary Judgment, Ex. D, p. 62-69. Moreover, Additional Defendant Castor testified at her deposition that the reason she applied her brakes before the MVA was because of a slower moving white car or SUV, not a passing semi. Reply Brief of Defendants Bolinger and Sterling Express, Ex. C, pp. 22-23.

Due to the lack of evidence showing Additional Defendant Bolinger was driving at a negligent rate of speed, it appears to the Court "highly extraordinary" that the actions of Additional Defendant Bolinger resulting in the kicking-up of snow (which does not create any form of negligence in and of itself) was the proximate cause of the MVA. Therefore, the question of actual cause need not be presented to the jury. As such, neither Additional Defendant Bolinger nor Sterling can

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be found negligent in causing the MVA. Because Additional Defendant Ward and Kuntzman, along with Defendant Falcon, have failed to provide evidence (circumstantial or otherwise) sufficient to establish that Additional Defendant Bolinger's actions were the proximate cause of the MVA, Defendants Bolinger and Sterling's Motion for Summary Judgment is granted.

## VII. ADDITIONAL DEFENDANTS RAEDER, VANDER-PLOEG, AND ALLIED'S MOTIONS FOR SUMMARY JUDGMENT

Additional Defendant Raeder filed his Motion for Summary Judgment on June 1, 2009, Motion for Summary Judgment, ¶¶ 1-6. Additional Defendants Vander-Ploeg and Allied filed their Motion for Summary Judgment on June 12, 2009. Additional Defendants' Motion to Join Motions for Summary Judgment, ¶¶ 1-7. Both Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied state summary judgment is proper as the record is "devoid of any evidence to support a causal connection between [either of their] actions at the time of the [MVA] and [Terrance Nagel's subsequent) death. Id.; Motion for Summary Judgment, ¶¶ 1-6. Defendant Falcon filed a Brief in Opposition to Additional Defendant Raeder's Motion on June 29, 2009, stating it can establish through direct and circumstantial evidence that Additional Defendant Raeder's actions were the cause of Terrance Nagel's death. Brief in Opposition to Additional Defendant Frank G. Raeder's' Motion for Summary Judgment, p. 5. Defendant Falcon also filed a Brief in Opposition to Additional Defendants Vander-Ploeg and Allied's Motion on July 20, 2009, stating it can show through direct and circumstantial evidence that Additional Defendant Vander-Ploeg's failure to stop his vehicle in a safe location was the proximate cause of Terrance Nagel's death. Brief in Opposition to Motion for Summarv Judgment of Additional Defendants Dick Vander-Ploeg and Allied Systems, Ltd., pp. 4-6.

Without providing any supportive facts unique to their alleged role in the MVA, both Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied state the same defenses available to Co-Additional Defendants apply to them, and both incorporate the individually tailored arguments contained in the other Motions and Briefs addressed herein (which argue the absence of proximate cause between their individual conduct and the MVA). *Motion for Summary Judgment*, ¶¶ 4-6; *Additional Defendants' Motion to Join Motions for Summary Judgment*, ¶¶ 6-7. Such claims are erroneous as Additional Defendants Raeder, Vander-Ploeg, and Allied are not in the same position as the other Additional Defendants (i.e., the facts associating each individual Additional Defendant with the MVA and its outcomes are quite varied, with no two Additional Defendants playing exactly the same role).

For instance, it is clear the defense of sovereign immunity set forth by Additional Defendant PennDOT does not similarly apply as neither Additional Defendant Raeder nor Additional Defendants Vander-Ploeg and Allied are agencies of the Commonwealth. Likewise, Additional Defendants Castor, Penske, and Barlow's defense stating there was no evidence offered to show a causal connection between their individual conduct and the MVA (as the only evidence offered against them was Mr. van Nooten's inadmissible report) cannot apply as there is additional evidence brought forth against Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied in the form of their deposed testimony. See, Brief in Opposition to Additional Defendant Frank G. Raeder's' Motion for Summary Judgment, Ex. A; Brief in Opposition to Motion for Summary Judgment of Additional Defendants Dick Vander-Ploeg and Allied Systems, Ltd., Ex. A. Also, as to any other defense incorporated by Additional Defendant Raeder or Additional Defendants Vander-Ploeg and Allied, the Court finds that a case-by-case analysis is necessary when attempting to determine the existence of proximate cause. See, Brim v. Wertz, 35 Pa.D.&C4th 277 (C.P. Lancaster Co. 1996). Finally, it is not the burden of each of the Co-Additional Defendants to prove summary judgment is proper as to the cases against Additional Defendants Raeder, Vander-Ploeg, and Allied, but it is the burden of Additional Defendants Raeder, Vander-Ploeg, and Allied to do so as to their own individual cases. See, Ertel, 674 A 2d at 1041

The Court shall, therefore, require Additional Defendants Raeder, Vander-Ploeg, and Allied (as the moving parties) to provide facts, argument, and law offered in support of their own arguments. Such are not provided by any of the three. Therefore, their statement that "the record is devoid of any evidence to support a causal connection between [their] actions at the time of the [MVA] and [Terrance Nagel's subsequent] death," is not a defense, but rather a conclusion built upon others' individual defenses. In this, Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied may, perhaps, share the same conclusion as the other Additional Defendants, but they cannot claim those defenses in support of that conclusion, as such defenses must be supported by individual facts specifically pertinent to the moving parties' role in the action.

In considering the evidence (more specifically, the lack thereof) provided by Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied, the Court possesses doubt as to whether the record is, in fact, devoid of any evidence to support a causal connection between Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied's conduct and the MVA / Terrance Nagel's death. As all doubts as to whether summary judgment is proper must

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be resolved against Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied, as the moving parties, Additional Defendant Raeder and Additional Defendants Vander-Ploeg and Allied's Motions are denied.

# IX. ADDITIONAL DEFENDANTS RITCHEY AND ADVANTAGE'S MOTION FOR SUMMARY JUDGMENT

Additional Defendants Ritchey and Advantage filed their Motion for Summary Judgment and Brief in Support thereof on June 22, 2009, under both Docket 10700-2007 and Companion Case 15000-2007. Motion for Summary Judgment, ¶¶ 1-10; Brief in Support of Motion for Summary Judgment, pp. 1-4. Additional Defendants Ritchey and Advantage argue summary judgment is proper as "the record is devoid of any evidence establishing any negligence on [their] part," which resulted in Terrance Nagel's death.<sup>16</sup> Brief in Support of Motion for Summary Judgment, p. 2. Defendant Falcon filed its Brief in Opposition on July 20, 2009, stating judgment is not proper as Additional Defendant Ritchey's was one of three vehicles impacting Terrance Nagel's (with the others being Additional Defendant Raeder's and Mr. Torchinsky's), there is no evidence to demonstrate which of the three impacts caused Terrance Nagel's death, and therefore genuine issues exists as to the precise circumstances of Terrance Nagel's death. Brief in Opposition to Motion for Summary Judgment of Additional Defendants Ronald Ritchey and Advantage Tank Lines, pp. 1-9.

Therefore, in order to determine whether Additional Defendants Ritchey and Advantage are entitled to summary judgment pursuant to Civil Rules 1035.1 *et seq.*, the Court must specifically address whether any adverse party (who will bear the burden of proof at trial) produced evidence of facts essential to the negligence action against Additional Defendants Ritchey and Advantage contained in Defendant Falcon's Complaint at Counts Seventeen and Eighteen. Proximate cause between an actors conduct and another's injury must be established before the actor may be found liable for those injuries, and such cause is established by evidence reasonably showing the actor's conduct was a substantial factor in bringing about the injury. *See, R.W.*, 888 A.2d at 743-44; *Hamil*, 392 A.2d at 1284; *Whitner*, 263 A.2d at 894; *Daniel*, 849 A.2d 1265; *Holt*, 932 A.2d 915; *Summers*, 743 A.2d 498. As proximate cause must be established before the question of actual cause may be put to a jury, the

<sup>&</sup>lt;sup>16</sup> Additional Defendants Ritchey and Advantage also argue summary judgment is proper as the record is devoid of "evidence suggesting. . .any of Mr. Torchinsky's injuries had anything to do with the operation of the Ritchey/Advantage Tank Lines vehicle. *Brief in Support of Motion for Summary Judgment, p. 2.* However, this argument is pertinent only to Companion Case 15000-2007 as Mr. Torchinsky is not a real party in interest at Docket 10700-2007. *See, n.2, supra.* Therefore the Court shall address any issue between Additional Defendants Ritchey and Advantage and Mr. Torchinsky in its Opinion regarding Companion Case 15000-2007.

Court (provided the record is void of facts which controvert the existence of such cause) must preliminarily determine whether reasonable minds are able to regard the actor's conduct as substantial in causing the injury, and must refuse to find the actor's conduct was the legal cause of harm if it appears highly extraordinary the actor's conduct substantially brought about the harm. *Id.; see, Daniel,* 849 A.2d 1265; *Brown,* 760 A.2d at 868; *Reilly,* 633 A.2d at 210; *Merritt,* 496 A.2d 1220.

The deposed testimony of Additional Defendant Raeder indicated he was already at the scene of the MVA when he not only witnessed Terrance Nagel outside of his cab, but also the tractor-trailer owned by Defendant Falcon approaching his location. *Brief in Opposition to Motion for Summary Judgment of Additional Defendants Ronald Ritchey and Advantage Tank Lines, Ex. B, pp. 15-18, 20.* Additional Defendant Raeder reacted by moving out of the oncoming truck's way, his vehicle was then sideswiped by another vehicle, and ultimately came to a rest underneath Terrance Nagel's vehicle. *Id.* Once Additional Defendant Raeder's vehicle was underneath Terrance Nagel's vehicle, Additional Defendant Raeder witnessed Additional Defendant Ritchey approach whereupon he saw Additional Defendant Ritchey's trailer come into contact with the rear passenger side of the trailer owned by Defendant Falcon, which had since rear-ended Terrance Nagel's tractor-trailer subsequent to its arrival. *Id. at 18-19; Motion for Summary Judgment,* ¶ *5.* 

Additional Defendant Raeder stated this collision shoved his, Terrance Nagel's, and Defendant Falcon's vehicles, and that he "felt the whole load shake again." *Brief in Opposition to Motion for Summary Judgment of Additional Defendants Ronald Ritchey and Advantage Tank Lines, Ex. B, pp. 19, 51, 54-55, 96, 112-13*. Additional Defendant Raeder's resultant sensations are corroborated by the report of the PSP. *Id. at Ex. C.* The PSP's report states Additional Defendant Ritchey, "was traveling in the right lane when [he] in an attempt to stop the unit, steered [the truck] toward the inner berm. The trailer of [Additional Defendant Ritchey's truck] then impacted into the left rear of [the truck owned by Defendant Falcon] causing a deeper impact between [the truck owned by Defendant Falcon] and [Terrance Nagel's vehicle]. *Id. at Ex. C.* 

Additional Defendants Ritchey and Advantage rely upon the deposition testimony of Tpr. Kloss wherein he states that based upon his investigation of the accident and his interview of the witnesses, he found no evidence that Additional Defendant Ritchey bore responsibility for the death of Terrance Nagel. *Motion for Summary Judgment, Ex. A, pp. 133-34.* However, the deposition testimony of Tpr. Kloss must be tempered by not only the testimony of Additional Defendant Raeder, but also the PSP's report, which indicates to the Court that due to the complicated nature of the crash and the subsequent investigation, it was very difficult for the police to determine in which order the accident happened. *See, Brief in* 

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*Opposition to Motion for Summary Judgment of Additional Defendants Ronald Ritchey and Advantage Tank Lines, Exs. B, C.* 

The Court finds the record merely reveals Terrance Nagel was alive and outside of his cab at some point after Additional Defendant Raeder's initial arrival and before the arrival of Defendant Falcon's truck. As the record contains no clear evidence as to what point Terrance Nagel subsequently died, such an absence creates questions as to which of the above-three impacts actually caused the death of Terrance Nagel. The testimony of Additional Defendant Raeder regarding his observations and sensations surrounding the three separate impacts to Terrance Nagel's vehicle, combined with the information obtained from the PSP regarding the same, prevents the Court from finding reasonable minds would not be able to regard Additional Defendant Ritchey's conduct as substantial in causing Terrance Nagel's death as such evidence creates a record that is not entirely void of facts which controvert the existence of proximate cause between Additional Defendant Ritchey's conduct and Terrance Nagel's death.

In considering the evidence provided by Additional Defendants Ritchey and Advantage, along with that provided by Defendant Falcon, the Court possess doubt as to whether the record is, in fact, devoid of any evidence to support a causal connection between Additional Defendants Ritchey and Advantage's conduct and Terrance Nagel's death. As all doubts as to whether such issues exists must be resolved against Additional Defendants Ritchey and Advantage, as the moving parties, Additional Defendants Ritchey and Advantage's Motion is denied, and the issue of causation should be decided by the jury.

# <u>ORDER</u>

**AND NOW, TO-WIT,** this 22nd day of September 2009, it is hereby **ORDERED, ADJUDGED,** and **DECREED** that, for the reasons set forth in the foregoing Opinion,

- I. Eric Jimenez and Logistic Leasing, Inc.'s Motion for Summary Judgment is **GRANTED.**
- II. John Lambert and Pond Brothers Trucking, LLC's Motion for Summary is **GRANTED.**
- III. The Pennsylvania Department of Transportation's Motion for Summary Judgment is **GRANTED** as to Count Nineteen, Paragraph 158(a), (c), (d), and (e) of Falcon Transportation, Inc.'s Complaint, and **DENIED** as to Count Nineteen, Paragraph 158(b) of Falcon Transportation, Inc.'s Complaint.
- IV. Cassandra Barlow's Motion for Summary Judgment is GRANTED.
- V. Tracy Castor and Penske Truck Leasing, Corp.'s Motion for Summary is **GRANTED.**
- VI. Michael Bolinger and Sterling Express, Ltd.'s Motion for Summary Judgment is **GRANTED.**

- VII. Frank Raeder's Motion for Summary Judgment is DENIED.
- VIII. Dick Vander-Ploeg and Allied Systems, Ltd.'s Motion for Summary Judgment is **DENIED**.
- IX. Ronald Ritchey and Advantage Tank Line's Motion for Summary Judgment is **DENIED.**

BY THE COURT: /s/ Shad Connelly, Judge

LEGAL NOTICE	COMMON PLEAS COURT
INCORPORATION NOTICE Notice is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about January 12, 2010: JACS Family Corp. c/o Corporate Creations Network Inc The corporate Creations Network Inc The corporate dunder the provisions of the Business Corporation Law of 1988 as amended. Jan. 29 INCORPORATION NOTICE Schaffer Technologies, Inc. has been incorporated under the provisions of the Business Corporation Law of 1988. John P. Leemhuis, Jr., Esq. Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc. 2222 West Grandview Boulevard Erie, Pennsylvania 16506-4508 Jan. 29	INCORPORATION NOTICE Notice is hereby given that The Amish Buggy, Inc. has been incorporated under the provisions of the Pennsylvania Corporation Law of 1988. Richard T. Ruth, Esq. 1026 West 26th Street Erie, PA 16508 Jan. 29
our clients keep their most val	uable assets: elongings.
	Notice is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA on or about January 12, 2010: JACS Family Corp. c/o Corporate Creations Network Inc The corporation has been incorporated under the provisions of the Business Corporation Law of 1988 as amended. Jan. 29 INCORPORATION NOTICE Schaffer Technologies, Inc. has been incorporated under the provisions of the Business Corporation Law of 1988. John P. Leemhuis, Jr., Esq. Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc. 2222 West Grandview Boulevard Erie, Pennsylvania 16506-4508 Jan. 29

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#### 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

#### February 19, 2010 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 <u>MUST</u> 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

Jan. 29 and Feb. 5, 12

SALE NO. 1 Ex. #14316 of 2009 Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania, Plaintiff v. James F. Hammerman

Lisa L. Hammerman, Defendant(s) LEGAL DESCRIPTION

All that certain piece or parcel of land situate in the City of Erie, and State of Pennsylvania, being lot No. 5, Block "C" of the WILLOW WAY HEIGHTS SUBDIVISION NO. 3 in Tract No. 251 of the City of Erie and State of Pennsylvania, as the same is more particularly described in Erie County Map Book COMMON PLEAS COURT

9 at page 35, having erected thereon a one story frame dwelling house commonly known as 4227 Bird Drive, Erie, Pennsylvania, City of Erie Index No. (18) 5260-502. BEING KNOWN AS: 4227 BIRD DRIVE, ERIE, PA 16511 PROPERTY ID NO 18-5260-502 TITLE TO SAID PREMISES IS VESTED IN James F. Hammerman and Lisa L. Hammerman, husband and wife, as tenants by the entireties by Deed from Lucille J. Grutkowski. an unremarried widow and Charles T. Grutkowski, single dated 3/28/02 recorded 4/1/02 in Deed Book 866 page 2314. Udren Law Offices, P.C. Mark J. Udren, Esq. Attorneys for Plaintiff 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 856-669-5400

Jan. 29 and Feb. 5, 12

#### SALE NO. 2 Ex. #14636 of 2009 Bank of America, N.A., Plaintiff v.

Alexander S. Jackna, Jr. Sandra L. Jackna, Defendant(s) LEGAL DESCRIPTION

All that certain piece or parcel of land situate in the Sixth Ward of the City of Erie, County of Erie and State of Pennsylvania, bounded and described as follows, to-wit: Beginning at a point in the south line of Thirty-first Street, three hundred eleven and eighty-four hundredths (311.84) feet east of the point of intersection of the south line of Thirty-first Street with the east line of Elmwood Avenue: thence southwardly parallel with Elmwood Avenue, one hundred thirty-five (135) feet to a point; thence eastwardly, parallel with Thirty-first Street, thirty-five (35) feet to a point; thence northwardly, parallel with Elmwood Avenue, one hundred thirty five (135) feet to a point in the south line of Thirty-first Street: thence westwardly along the south line of Thirty-first Street, thirty-five (35) to the place of beginning, being Lot No. 79 on the Rossi Addition to the City of Erie, recorded in Map Book No. 2, pages

82 and 83.

Having erected thereon a dwelling commonly known as 1165 West 31st Street, Erie, Pennsylvania, and being further identified as Erie County Tax Parcel Index No. (19) 6219-119.

BEING KNOWN AS: 1165 WEST 31ST STREET, ERIE, PA 16508 PROPERTY ID NO.: 19-6219-119 TITLE TO SAID PREMISES IS VESTED IN Alexander S. Jackna, Jr. and Sandra L. Jackna, husband and wife, as tenants by the entireties by Deed from Albina A. Palmisano, single dated 8/30/06 recorded 8/30/06 in Deed Book 1356 page 2226.

Udren Law Offices, P.C. Mark J. Udren, Esq. Attorneys for Plaintiff 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 856-669-5400

Jan. 29 and Feb. 5, 12

SALE NO. 3 Ex. #14410 of 2009 Household Finance Consumer Discount Company, Plaintiff

#### Michael R. Lockwood Morgan M. Lockwood (Real Owner), Defendant(s) LEGAL DESCRIPTION

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

BEGINNING at an iron survey pin set in the south margin of U.S. Route 20, said pin is located North 57° 51' 00" East a distance of 418.77 feet from an iron survey pin set at the intersection of the East line of Polly Drive with the South line of U.S. Route 20; Thence, South 25° 58' 00" East, 342.20 feet to a concrete monument: Thence South 64° 50' West, a distance of 136.25 feet to an iron survey pin; Thence, North 31° 39' 08" West, a distance of 80.67 feet to iron survey pin; Thence continuing North 23° 10' 51" West, a distance of 245.86 feet to an iron survey pin set in the south margin

of U.S. Route 20; Thence, along the South line of U.S. Route 20, North 57° 51' 00" East, a distance of 134.00 feet to the point and place of beginning.

CONTAINING 1,070 total acres and having erected thereon a house and garage and being the same property shown as Lot No. 2 on a survey for Michael R. Lockwood recorded as Erie County Drawing No. 2000-110.

BEING the same premises conveyed to party of the first part by Deed dated April 28, 2000 and recorded on May 2, 2000 in Erie County Record Book 701, Page 634.

BEING KNOWN AS: 6711 WEST RIDGE ROAD, P.O. BOX 17, FAIRVIEW, PA 16415

PROPERTY ID NO. : 21-53-93-48.1 TITLE TO SAID PREMISES IS VESTED IN Michael R. Lockwood and Morgan M. Lockwood, his daughter, as joint tenants with the right of survivorship by Deed from Michael R. Lockwood, sole owner dated 12/5/06 recorded 12/6/06 in Deed Book 1381 page 314. Udren Law Offices, P.C. Mark J. Udren, Esq. Attorneys for Plaintiff 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 856-669-5400

Jan. 29 and Feb. 5, 12

#### SALE NO. 4 Ex. #14706 of 2009 Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of Pennsylvania, Plaintiff

#### v. Brian M. Quimby Miki Bito-Quimby, Defendant(s) <u>LEGAL DESCRIPTION</u>

All that certain piece of parcel of land situate in the Township of Fairview, County of Erie and Commonwealth of Pennsylvania, being all of Lot No. 576 and part of Lot No. 577 of Lake Shore Club District Subdivision, part of tracts No. 283 and 284 (incorrectly stated as "part of Tract No. 284" in prior deeds) as recorded in the Office of the Recorder of Deeds of Erie County, Pennsylvania, in Map Book 3, pages 176 and 177, and more particularly bounded and described as follows:

BEGINNING at the northeast corner of the land herein described, the corner common to Lots No. 575 (incorrectly stated as No. 574 in prior deeds) and 576 of Lake Shore Club District Subdivision in the westerly line of Hardscrabble Boulevard around a curve to the right, one hundred eight and thirty four hundredths (108.34) feet to a point in said boulevard line situated twenty one and sixty six hundredths (21.66) feet northerly from the southeast corner of Lot No. 577; thence South 60° 46' West, passing through Lot No. 577, one hundred seventy and three hundredth (170.03) feet to a point in the line common to Lots No. 577 and 563 situated sixteen and sixty six hundredths (16.66) feet northerly from the southwest corner of Lot No. 577; thence North 26° 37 1/2' West, eighty nine and thirty four hundredths (89.34) feet to the northwest corner of Lot No. 576; thence North 54° 13' East along (formerly referred to as "with" in prior deeds) the northerly line of Lot No. 576, one hundred sixtyfive and nine hundredths (165.09) feet to the place of beginning. The beginning point in the westerly line of Hardscrabble Boulevard is four hundred twenty-five (425) feet southwardly from the southerly line of Bogey Way.

The above-described property is commonly known as 1312 Hardscrabble Boulevard, Erie, PA. Being further identified by Index No. (21) 39-47-4.

BEING KNOWN AS: 1312 HARDSCRABBLE BOULEVARD, ERIE, PA 16505

PROPERTY ID NO.: 21-39-47-4 TITLE TO SAID PREMISES IS VESTED IN Brian M. Quimby and Miki Bito-Quimby, husband and wife, as tenants by the entireties with the right of survivorship by Deed from Jane A. McMaster McGinty, married dated 6/11/98 recorded 6/17/98 in Deed Book 568 page 213. Udren Law Offices, P.C. Mark J. Udren, Esq. Attorneys for Plaintiff 111 Woodcrest Road, Suite 200 Cherry Hill, NJ 08003-3620 856-669-5400

Jan. 29 and Feb. 5, 12

#### SALE NO. 5 Ex. #11059 of 2009 Cadle of Grassy Meadows II, L.L.C., Assignee of National City Bank, Successor in interest to National City Bank of Pennsylvania, Plaintiff

v.

#### Mark L. Moore and Katherine H. Moore, Defendant <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 11059-09 Cadle of Grassy Meadows II, L.L.C., Assignee of National City Bank, Successor in interest to National City Bank of Pennsylvania vs. Mark L. Moore and Katherine H. Moore

Mark L. Moore and Katherine H. Moore, owner(s) of property situated in Greene Township, Erie County, Pennsylvania being 8141-8149 Wattsburg Road, Erie, Pennsylvania 16509

7.9500 acres

Assessment Map number: 25-2-6-42 Assessed Value figure: \$155,800.00 Improvement thereon: Auto Service Garage and Residential Family Dwelling

Christine A. Saunders, Esq. Metz Lewis LLC 11 Stanwix Street, 18th Floor Pittsburgh, PA 15222 412,918,1100

Jan. 29 and Feb. 5, 12

#### SALE NO. 7 Ex. #14146 of 2009

Wells Fargo Bank, N.A., successor by merger to Wells Fargo Bank Minnesota, N.A., as Trustee f/k/a Norwest Bank Minnesota, N.A., as Trustee for the registered holders of Renaissance Home Equity Loan Asset-Backed Certificates, Series 2004-1, by its attorney in fact, Ocwen Loan Servicing, LLC

> David C. Weyand and Jadie A. Weyand

#### COMMON PLEAS COURT

#### LEGAL DESCRIPTION

ALL that certain piece or parcel of land situate in the Township of Harborcreek, County of Erie and State of Pennsylvania, being the East end of Lot No. 34 in the Normandale Addition. A plot of said addition being recorded in Map Book 2, page 231, Recorder's Office of Erie County, Pennsylvania, and more fully bounded and described as follows, to-wit:

COMMENCING at a pin in the southwest corner of Maple Avenue and Orchard Street; thence westerly along the south line of Orchard Street forty-five (45) feet to a pin; thence southerly parallel with the west line of Maple Avenue ninety nine and three tenths (99.3) feet to the New York Central Railroad fence and right of way: thence easterly along said New York Central right of way forty-five and five tenths (45.5) feet to an iron pin in the west line of Maple Avenue; thence northerly along the west line of Maple Avenue one hundred and five (105) feet to the place of beginning. Containing the amount of land within said enclosure.

ALSO, all that certain piece or parcel of land situate in the Township of Harborcreek, County of Erie and State of Pennsylvania, and more particularly bounded and described as follows, to-wit:

BEING Lots 10 and 11 in the Allen Park Subdivision as plotted by A.J. Cobb. Robert J. O'Brien and recorded in the Recorder's Office of Erie County, Pennsylvania in Map Book 2 at page 31. Said Lot No. 10 having a frontage of fifty-two (52) feet on Orchard Avenue, with a uniform depth of one hundred sixteen and four tenths (116.4) feet; and Lot No. 11 having a frontage of fifty-six and thirty five hundredths (56.35) feet on Orchard Avenue, with a uniform depth of one hundred nine and one-tenth (109.1) feet more or less. Said lots extending from Orchard Avenue to the right of way of the L.S. and M.S. Railway. Having erected on the piece described above a one and one-half story frame cottage.

BEING the same premises which

Richard C. Cornwell, II and Bonnie M. Cornwell, his wife, by deed dated October 31, 1984, and recorded on November 6, 1984, in Book 1559 at Page 66, of the Erie County, PA Records, granted and conveyed unto, David C. Weyand and Jadie A. Weyand, his wife. Property Address: 6961 Orchard Street, Harborcreek, PA 16421. Attorney for Plaintiff: Kevin P. Diskin, Esquire Stern and Eisenberg, LLP The Pavilion, 261 Old York Road, Suite 410 Jenkintown, PA 19046 (215) 572-8111 Jan. 29 and Feb. 5, 12

## SALE NO. 8 Ex. #13912 of 2009 Northwest Savings Bank

Tod Buchanan

SHERIFF'S SALE

By virtue of a Writ of Execution filed at No. 13912-2009, Northwest Savings Bank vs. Tod Buchanan, owner of property situate in the City of Erie, Erie County, Pennsylvania being: 1541 West 42nd Street, Erie, Pennsylvania. 56' X 137.54' X 56' X 137.54' Assessment Map Number: (19) 6169-209 Assessed Value Figure: \$84,400.00 Improvement Thereon: Residence Kurt L. Sundberg, Esq. Marsh Spaeder Baur Spaeder & Schaaf, LLP Suite 300, 300 State Street Erie, Pennsylvania 16507 (814) 456-5301

Jan. 29 and Feb. 5, 12

SALE NO. 9 Ex. #14846 of 2009 HSBC Bank USA, N.A., as Indenture Trustee for the registered Noteholders of Renaissance Home Equity Loan Trust 2005-4, Renaissance Home Equity Loan Asset-Backed Notes, Series 2005-4, Plaintiff

v. Tammy L. Lobdell and Steven A. Lobdell, Defendant <u>SHERIFF'S SALE</u> By virtue of a Writ of Execution

#### COMMON PLEAS COURT

filed to No. 14846-09 HSBC Bank USA, N.A., as Indenture Trustee for the registered Noteholders of Renaissance Home Equity Loan Trust 2005-4, Renaissance Home Equity Loan Asset-Backed Notes, Series 2005-4 vs. Tammy L. Lobdell and Steven A. Lobdell, owner(s) of property situated in Borough of Elgin, Erie County, Pennsylvania being 11707 Route 6, Corry, PA 16407

.4 acres

Assessment Map number: 3-2-2-1 Assessed Value figure: \$87,460.00 Improvement thereon: a residential dwelling

Leslie J. Rase, Esquire Shapiro & DeNardo, LLC Attorney for Movant/Applicant 3600 Horizon Drive, Suite 150 King of Prussia, PA 19406 (610) 278-6800

Jan. 29 and Feb. 5, 12

SALE NO. 11 Ex. #14823 of 2009 U.S. Bank National Association, as Trustee under Pooling and Servicing Agreement dated as of May 1, 2007 MASTR Asset-Backed Securities Trust 2007-HE1 Mortgage Pass-Through Certificates. Series 2007-HE1

#### v. Jeffrey M. Leech and Robin L. Leech <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 2009-14823, U.S. Bank National Association, as Trustee under Pooling and Servicing Agreement dated as of May 1, 2007 MASTR Asset-Backed Securities Trust 2007-HE1 Mortgage Pass-Through Certificates. Series 2007-HE1 vs. Jeffrey M. Leech and Robin L. Leech, owners of property situated in Township of Harborcreek, Erie County, Pennsylvania being 6186 Redwood Drive, Harborcreek, PA 16421

Assessment Map number: 27-18-33-14

Assessed Value figure: \$103,140.00 Improvement thereon: Residential Dwelling

Mary L. Harbert-Bell, Esquire 220 Lake Drive East, Suite 301

#### COMMON PLEAS COURT

Cherry Hill, NJ 08002 (856) 482-1400 Jan. 29 and Feb. 5, 12

#### SALE NO. 12 Ex. #12932 of 2009 Citibank N.A. as Trustee under Pooling and Servicing Agreement dated as of March 31, 2005 Wachovia Loan Trust 2005-SD1 Asset-Backed Certificates, Series 2005-SD1 v.

Gordon J. Pruzenski, Original Mortgagor and Real Owner and Stephanie A. Pruzenski, Original Mortgagor

#### SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12932-09, Citibank N.A. as Trustee under Pooling and Servicing Agreement dated as of March 31, 2005 Wachovia Loan Trust 2005-SD1 Asset-Backed Certificates, Series 2005-SD1 vs. Gordon J. Pruzenski, Original Mortgagor and Real Owner and Stephanie A. Pruzenski, Original Mortgagor, owners of property situated in 5th Ward, City of Erie, Erie County, Pennsylvania being 2914 Florence Avenue, Erie, PA 16504

Assessment Map number: 18-5105-207

Assessed Value figure: \$55,990.00 Improvement thereon: Residential Dwelling Mary L. Harbert-Bell, Esquire 220 Lake Drive East, Suite 301

Cherry Hill, NJ 08002 (856) 482-1400

Jan. 29 and Feb. 5, 12

#### SALE NO. 13 Ex. #14136 of 2009 The Bank of New York Mellon, as Successor Trustee under NovaStar Mortgage Funding Trust, Series 2006-3, Plaintiff

#### v. Martin J. Zapolski Debbie A. Zapolski, Defendants LEGAL DESCRIPTION

ALL that certain piece or parcel of land situate in the Borough of Wesleyville, County of Erie and Commonwealth of Pennsylvania, bounded and described as follows,

to-wit: BEGINNING in the east line of Bird Drive at a point 214 feet southwardly from the south line of Buffalo Road; thence southwardly along the East line of Bird Drive, 47.12 feet to a point; thence eastwardly at an included angle of 90°, 166.79 feet to a point; thence northwardly, along the west line of "Wesleyville Subdivision No. 2" as recorded in the office of the Recorder of Deeds of Erie County, a distance of 47.12 feet to a point; thence westwardly 166.45 feet to a point in the east line of Bird Drive, being the place of beginning. Subject to all restrictions, easements and rights of way of record. Having erected thereon a two story frame residence building also being known as 2023 Bird Drive, Wesleyville, Pennsylvania. BEING the same premises as conveyed from Martin J. Zapolski and Debbie A. Zapolski, husband and wife to Martin J. Zapolski and Debbie A. Zapolski, husband and wife by deed dated 02/18/2004 and recorded 02/27/20047 [sic] in Book 1111, Page 602. BEING commonly known as 2023 Bird Drive, Erie, PA 16510 HAVING Tax/Parcel ID No .: 50-3-25-31 Martin S. Weisberg, Esquire Attorney ID Number: 51520 Mattleman, Weinroth & Miller 401 South 70 East, Suite 100 Cherry Hill, NJ 08034 (856) 429-5507 Attorneys for Plaintiff Jan. 29 and Feb. 5. 12

#### SALE NO. 14 Ex. #14346 of 2009 Corry Federal Credit Union, Plaintiff

#### v.

#### Robert E. Cross, Sr. and Sherri A. Cross, Defendants ADVERTISING DESCRIPTION

By virtue of Writ of Execution filed at No. 14346-2009, Corry Federal Credit Union v. Robert E. Cross, Sr. and Sherri A. Cross, owner of the following properties identified below:

1) Situate in the City of Corry, County of Erie, and Commonwealth of Pennsylvania at 54 Brook Street, Corry, PA 16407. Assessment Map No.: (8) 33-157-8 Assessed Value Figure: \$30,820.00 Improvement Thereon: Single Family Residential Dwelling Michael S. Jan Janin, Esq. Pa I D No 38880 2222 West Grandview Boulevard Erie. PA 16506-4508 Phone: (814) 833-2222 Attorneys for Plaintiff. Corry Federal Credit Union Jan. 29 and Feb. 5. 12

#### SALE NO. 15 Ex. #10732 of 2008 PNC BANK, NA, Plaintiff

#### v.

#### Renee M. Hopkins, Defendant SHERIFF'S SALE

By virtue of Writ of Execution filed to No. 10732-08 PNC Bank N.A. vs. Renee M. Hopkins, owner(s) of property situated in 1st Ward, City of Erie, Erie County, Pennsylvania being 423 East 6th St., Erie, PA, 16512. 247.6' x 41.3' x 165' x 41.3' x 165'

Assessment Map number: (14) 1013-415.

Assessed Value figure: \$50,400.00. Improvement thereon: Single Family dwelling

Patrick Thomas Woodman, Esq. 436 Seventh Ave., 1400 Koppers Bldg. Pittsburgh, PA 15219

(412) 434-7955

Jan. 29 and Feb. 5, 12

#### SALE NO. 16 Ex. #14064 of 2009 PNC Bank, NA, Plaintiff

v.

#### Timothy A. Horton, Sr. and Donna J. Horton, Defendant <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 14064-09, PNC Bank, NA vs. Timothy A. Horton, Sr., and Donna J. Horton, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 922 East 24th Street, Erie, PA 16503 135' x 50'

Assessment Map number: 18-5038-125

Assessed Value figure: \$47,600.00 Improvement thereon: Single family dwelling Patrick Thomas Woodman, Esq. 436 Seventh Ave., 1400 Koppers Bldg. Pittsburgh, PA 15219 (412) 434-7955 Jan. 29 and Feb. 5, 12

#### SALE NO. 17 Ex. #15027 of 2008 U.S. Bank National Association, as trustee, on behalf of the holders of the Home Equity Asset Trust 2006-5 Home Equity Pass-Through Certificates, Series 2006-5

#### Rodney L. Schuler SHERIFF'S SALE

By virtue of a Writ of Execution file to No. 15027-08 U.S. Bank National Association, as trustee, on behalf of the holders of the Home Equity Asset Trust 2006-5 Home Equity Pass-Through Certificates, Series 2006-5 vs. Rodney L. Schuler, owner(s) of property situated in the Township of North East, County of Erie, Pennsylvania being 2271 North Mill Road, North East, PA 16428 10 ACRES

Assessment Map Number: (37) 3-53-28 Assessed Value figure: \$96,280.00 Improvement thereon: Single Family Dwelling Scott A. Dietterick, Esquire Zucker, Goldberg & Ackerman, LLC 200 Sheffield Street, Suite 301 Mountainside, NJ 07092 (908) 233-8500 Jan. 29 and Feb. 5, 12

#### SALE NO. 18 Ex. #14292 of 2009 First National Bank of Pennsylvania, Plaintiff

#### v. Matthew M. Laniewicz, Jr. and Kelli A. Laniewicz, Defendants <u>SHORT DESCRIPTION</u>

ALL that certain piece or parcel of land situate in the Borough of Wesleyville, County of Erie and Commonwealth of Pennsylvania, having erected thereon a one and one-half story brick dwelling and one-car frame garage and further identified by Erie County Assessment Index No. (50) 4-27-25 and commonly known as 2424 Eastern Avenue, Wesleyville, Pennsylvania. Susan Fuhrer Reiter Pa. 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 Jan. 29 and Feb. 5, 12

#### SALE NO. 19 Ex. #13436 of 2009 PNC Bank, National Association, Plaintiff

#### Daniel L. Glass, Jr., Defendant SHERIFF'S SALE

By Virtue of a Writ of Execution filed to No. 13436-09 PNC Bank National Association vs. Daniel L. Glass, Jr., owners of property situated in Township of Union, Erie, County, Pennsylvania being 16444 Old Valley Road, Union City, PA 16438 1.77 Acres Assessment Map number: (43) 20-33-7 Assessed Value figure: \$70,200.00 Improvement thereon: Residential Dwelling Brett A. Solomon, Esq. Michael C. Mazack, Esq. 1500 One PPG Place Pittsburgh, PA 15222 (412) 594-5506 Jan. 29 and Feb. 5, 12

#### SALE NO. 20 Ex. #14155 of 2009 CITIMORTGAGE, INC., Plaintiff

#### v.

#### NANCY R. ADAMS ROY R. ADAMS, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 14155-09 CITIMORTGAGE, INC. vs. NANCY R. ADAMS and ROY R. ADAMS Amount Due: \$98,613.86 NANCY R. ADAMS and ROY R. ADAMS, owner(s) of property situated in the TOWNSHIP OF

#### COMMON PLEAS COURT

MILLCREEK, Erie County, Pennsylvania being 2220 GATESMILL DRIVE, ERIE, PA 16510-6410 Dimensions: 60 x 125 Acreage: 0.1722 Assessment Map number: 33108480801700 Assessed Value: \$131,400.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 21 Ex. #13759 of 2009 THE HUNTINGTON NATIONAL BANK S/B/M SKY BANK, Plaintiff

#### SARA M. AHL A/K/A SARA AHL JOHN JEFFREY AHL, JR., Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13759-09 THE HUNTINGTON NATIONAL BANK S/B/M SKY BANK vs. SARA M. AHL A/K/A SARA AHL and JOHN JEFFREY AHL, JR Amount Due: \$115,368.92 SARA M. AHL A/K/A SARA AHL and JOHN JEFFREY AHL, JR, owner(s) of property situated in the TOWNSHIP OF GIRARD, Erie County, Pennsylvania being 7155 GENEVA MARIE LANE A/K/A, 7210 GENEVA MARIE LANE GIRARD, PA 16417-7853 Acreage: 1.1940 Assessment Map number: 24013036007104 Assessed Value: \$86,100.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 22 Ex. #13702 of 2005 **US BANK. Plaintiff** v. SCOTT A. BJORK LINDA E. BJORK, Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 13702-05 US BANK vs. SCOTT A. BJORK and LINDA E. BJORK Amount Due: \$219,810.55 SCOTT A. BJORK and LINDA E. BJORK, owner(s) of property situated in Erie County. being Pennsylvania 4526 CEDARWOOD COURT. ERIE. PA 16506 Dimensions: 90 x 162.67 Acreage: 0.3361 Assessment Map number: 33-062-235-0-056-14 Assessed Value: 160,950.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

SALE NO. 23 Ex. #13922 of 2009 WELLS FARGO BANK, N.A., Plaintiff v. ROGER S. CHENEY Defendant(s) <u>SHERIFF'S SALE</u> By virtue of a Writ of Execution filed to No. 13922-09 WELLS FARGO BANK, N.A. vs. ROGER S. CHENEY

Amount Due: \$51.096.04 ROGER S. CHENEY, owner(s) of property situated in the 2ND WARD OF THE CITY OF ERIE, Erie County, Pennsylvania being 330 EAST 9TH STREET, ERIE, PA 16503-1108 Dimensions: 41.25 X 165 Acreage: 0.1562 Assessment number: Map 15020016023800 Assessed Value: \$57,700.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP

One Penn Center at Suburban

Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

#### SALE NO. 24 Ex. #12047 of 2009 TAYLOR, BEAN & WHITAKER MORTGAGE CORPORATION, Plaintiff

#### RANDY L. DINGLE, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 2009-12047 TAYLOR, BEAN & WHITAKER MORTGAGE CORPORATION vs. RANDY L. DINGLE Amount Due: \$124,408.63 RANDY L. DINGLE, owner(s) of property situated in BOROUGH OF UNION CITY BOROUGH. 1ST WARD OF THE BOROUGH OF UNION CITY. Erie County. Pennsylvania being 52 1/2WARDEN STREET, A/K/A 52 WARDEN STREET, UNION CITY. PA 16438-1041 Dimensions: 4.6 AC Acreage: 4.6000 Assessment Map number<sup>.</sup> 41-003-004.0-002.00 Assessed Value: \$91,440.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

#### SALE NO. 26 Ex. #13998 of 2009 WELLS FARGO BANK, N.A., Plaintiff

v. LATORY W. FELDER A/K/A LETORY W. FELDER, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 13998-09 WELLS FARGO BANK, N.A. vs. LATORY W. FELDER A/K/A LETORY W. FELDER Amount Due: \$74,946.62

#### COMMON PLEAS COURT

LATORY W FELDER A/K/A LETORY W. FELDER, owner(s) of property situated in the 3RD WARD OF THE CITY OF ERIE, Erie County, Pennsylvania being 354 WEST 9TH STREET, ERIE, PA 16502-1427 Dimensions: 47.5 X 132 IRREGULAR Acreage: 0.1439 Assessment Map number: 16030020022900 Assessed Value: \$49,730.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

SALE NO. 27 Ex. #12279 of 2009 US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CERTIFICATEHOLDERS OF BEAR STEARNS ASSET BACKED SECURITIES I LLC, ASSET BACKED CERTIFICATES, SERIES 2004-AC7, Plaintiff V.

#### JOSEPH FENDONE, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 12279-09 US NATIONAL BANK ASSOCIATION. AS TRUSTEE CERTIFICATEHOLDERS FOR OF BEAR STEARNS ASSET BACKED SECURITIES T LLC. ASSET BACKED CERTIFICATES. SERIES 2004-AC7 vs. JOSEPH FENDONE Amount Due: \$101.272.10 JOSEPH FENDONE, owner(s) of property situated in BOROUGH OF EDINBORO, Erie County, Pennsylvania being 206 HIGH STREET, EDINBORO, PA 16412-2553 Dimensions: 80 X 260

Dimensions: 80 X 260 Acreage: 0.4775 Assessment Map number: 11010044000400 Assessed Value: 83,920.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP

One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

SALE NO. 28 Ex. #14423 of 2007 FLAGSTAR BANK, FSB. Plaintiff KRISTOFFER S. FILSON DARCIE L. FILSON, Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 14423-07 FLAGSTAR BANK. FSB vs. KRISTOFFER S. FILSON and DARCIE L. FILSON Amount Due: \$159,753.36 KRISTOFFER S. FILSON and DARCIE L. FILSON, owner(s) of property situated in Erie County, Pennsylvania being 10386 HALL AVENUE, LAKE CITY, PA 16423 Dimensions: 65 X 140 Acreage: 0.2089 Assessment Map number<sup>.</sup> 28009009003600 Assessed Value: 93.590.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP

One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

SALE NO. 30 Ex. #14441 of 2009 BAC HOME LOANS SERVICING, LP, Plaintiff v.

#### **ROBIN R. GALBRAITH,** Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 14441-09 BAC HOME LOANS SERVICING, LP vs. ROBIN R. GALBRAITH Amount Due: \$109.500.57 ROBIN R. GALBRAITH, owner(s) of property situated in the TOWNSHIP OF NORTH EAST, Erie County, Pennsylvania being 11078 WEST LAW ROAD,

#### ERIE COUNTY LEGAL JOURNAL LEGAL NOTICE

NORTH EAST. PA 16428-3873 Dimensions: 100 X 175 Acreage: 0.4017 Assessment number: Map 37023092003200 Assessed Value: \$63,230,00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

SALE NO. 31 Ex. #11755 of 2008 PHH MORTGAGE **CORPORATION, F/K/A** CENDANT MORTGAGE **CORPORATION**, Plaintiff v. **DEREK E. GATES, Defendant(s)** SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 11755-08 MORTGAGE PHH CORPORATION. F/K/A CENDANT MORTGAGE CORPORATION vs. DEREK E. GATES Amount Due: \$76,295.56 DEREK E. GATES, owner(s) of property situated in the CITY OF ERIE, Erie County, Pennsylvania being 1338 WEST 30TH STREET. ERIE, PA 16508. Dimensions: 40 X 95 Acreage: 0.0872 Assessment Map number: 19062023042300 Assessed Value: 65.300.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 32 Ex. #12685 of 2009 AURORA LOAN SERVICES LLC. Plaintiff v. KATHRYN HARPER ANTHONY HARPER, Defendant(s) SHERIFF'S SALE

#### COMMON PLEAS COURT

By virtue of a Writ of Execution filed to No. 12685-09 AURORA LOAN SERVICES LLC vs. KATHRYN HARPER and ANTHONY HARPER Amount Due: \$90,465,94 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: 40X135 Acreage: 0.1240 Assessment Map number<sup>.</sup> 19-062-018.0-231.00 Assessed Value: \$75,500.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

SALE NO. 33 Ex. #13431 of 2009 CITIMORTGAGE, INC., Plaintiff v.

#### PEARL L. HILL JAMES HENDERSON. Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13431-09 CITIMORTGAGE, INC. VS. PEARL L. HILL and JAMES HENDERSON PEARL L. HILL and JAMES HENDERSON. owner(s) of property situated in TOWNSHIP OF ERIE CITY, CITY OF ERIE, Erie County, Pennsylvania being 635 EAST 24TH STREET, ERIE, PA 16503-2111 Dimensions: 32.5 X 128 Acreage: 0.0955 Assessment Map number: 18-050-027.0-210.00 Assessed Value: \$25,170.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

#### SALE NO. 35 Ex. #13999 of 2009 DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2006-WF2, Plaintiff v.

#### SULEMAN HUCIC, A/K/A SULEJMAN HUCIC RAZA MANJIC, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13999-09 DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR SOUNDVIEW HOME LOAN TRUST 2006-WF2 vs. SULEMAN HUCIC A/K/A SULEJMAN HUCIC and RAZA MANJIC Amount Due: \$88.343.32 SULEMAN HUCIC A/K/A SULEJMAN HUCIC and RAZA MANJIC, owner(s) of property situated in the 5TH WARD OF THE CITY OF ERIE, Erie County, Pennsylvania being 737 EAST 30TH STREET, ERIE, PA 16504-1214 Dimensions: 70 x 130 Acreage: 0.2089 Assessment Map number: 18050062020800 Assessed Value: \$70,720.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

Jan. 29 and Feb. 5, 12

SALE NO. 36 Ex. #10404 of 2009 DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR FFMLT TRUST 2006-FF6, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2006-FF6, Plaintiff v. JAMES S. KLOBUSNIK, JR., Defendant(s) <u>SHERIFF'S SALE</u> By virtue of a Writ of Execution filed to No. 10404-09 DEUTSCHE BANK NATIONAL

TRUST COMPANY, AS TRUSTEE FOR FFMLT TRUST 2006-FF6,

MORTGAGE PASS-THROUGH CERTIFICATES. SERIES 2006-FF6 vs. JAMES S. KLOBUSNIK, JR Amount Due: \$118,859.60 JAMES S. KLOBUSNIK, JR. owner(s) of property situated in TOWNSHIP OF SPRINGFIELD. Erie County, Pennsvlvania being 631 ELLIS ROAD, EAST SPRINGFIELD, PA 16411-9736 Dimensions: TR 590 1.25 AC Acreage: 1.2500 Assessment Map number: 39-003-013.0-019.00 Assessed Value: \$64,310.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

#### SALE NO. 37 Ex. #11482 of 2009 CITIMORTGAGE, INC., Plaintif

#### DAVID J. LANAGAN JACQUELINE M. LANAGAN, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 11482-09 CITIMORTGAGE INC VS. DAVID L LANAGAN and JACQUELINE M. LANAGAN Amount Due: \$87,923,79 DAVID J. LANAGAN and JACOUELINE M. LANAGAN. owner(s) of property situated in BOROUGH OF WATTSBURG, Erie County, Pennsylvania being 14451 LOWVILLE STREET, WATTSBURG, PA 16442 Dimensions: 110 X 200 Acreage: 0.5051 Assessment Map number: 48-002-012 0-017 03 Assessed Value: 90,620.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 38 Ex. #10852 of 2008 FLAGSTAR BANK, FSB. Plaintiff v. DALE L. MATHA A/K/A DALE L. MATHA, JR MELISSAA. MATHA. Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 10852-08 FLAGSTAR BANK. FSB vs DALE L. MATHA A/K/A DALE L. MATHA. JR and MELISSA A. MATHA Amount Due: \$96,920,13 DALE L. MATHA A/K/A DALE L. MATHA, JR and MELISSA A. MATHA, owner(s) of property situated in the TOWNSHIP OF MILLCREEK Erie County. Pennsylvania being 1642 BIEBEL AVENUE, ERIE, PA 16509 Dimensions: 100 x 165 Acreage: 0.3788 Assessment Map number: 33165609001100 Assessed Value: \$70.610.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

SALE NO. 39 Ex. #10064 of 2009 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE STRUCTURED ASSET INVESTMENT LOAN TRUST, 2006-4, Plaintiff V.

> JAMES PARENT MICHELLE PARENT, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 10064-09

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE STRUCTURED ASSET INVESTMENT LOAN TRUST, 2006-4 vs. JAMES PARENT and MICHELLE PARENT Amount Due: \$70,718.41

JAMES PARENT and MICHELLE PARENT, owner(s) of property situated in the CITY OF ERIE. Erie County, Pennsylvania being 254 SCOTT STREET, ERIE, PA 16508-1836 Dimensions: 35 X 120 Acreage: .0964 Assessment Map number<sup>.</sup> 19-060-053.0-337.00 Assessed Value: 42.630.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 40 Ex. #13210 of 2009 NATIONAL CITY BANK, Plaintiff v.

#### ALICE A. RICE KEITH A. RICE, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No 13210-09 NATIONAL CITY BANK vs. ALICE A. RICE and KEITH A. RICE Amount Due: \$103.303.44 ALICE A. RICE and KEITH A. RICE. owner(s) of property situated in TOWNSHIP OF HARBORCREEK, Erie County, Pennsylvania being 1429 DAVISON ROAD. HARBORCREEK. PA 16421 Dimensions: 218 x 150 Acreage: 0.7507 Assessment Map number<sup>.</sup> 27-021-118.0-006.00 Assessed Value: \$77.610.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5. 12

SALE NO. 41 Ex. #13981 of 2009 BANK OF AMERICA, N.A., Plaintiff

#### COMMON PLEAS COURT

v. DAVID L. SLIDER MELINDA S. SLIDER, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 13981-2009 BANK OF AMERICA. N.A. vs. DAVID L. SLIDER and MELINDAS. SLIDER Amount Due: \$67,305.24 DAVID L. SLIDER and MELINDAS. SLIDER, owner(s) of property situated in the CITY OF ERIE. Erie County, Pennsylvania being 2926 HOLLAND STREET, ERIE, PA 16504-1044 Dimensions: 35 X 110 Acreage: 0.0884 Assessment number: Map 18050085010000 Assessed Value: 55,510.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

SALE NO. 42 Ex. #13866 of 2009 CITIMORTGAGE, INC., Plaintiff V.

> MICHAEL R. SMITH MARTINA M. SMITH, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 13866-09 CITIMORTGAGE. INC vs MICHAEL R SMITH and MARTINA M. SMITH Amount Due: \$227,900.71 MICHAEL R. SMITH and MARTINA M. SMITH. owner(s) of property situated in the TOWNSHIP OF SUMMIT, Erie County, Pennsylvania being 8600 HONEYSUCKLE DRIVE, ERIE, PA 16509-5069 Dimensions: 55.32 X 167.13 IRREGULAR Acreage: 0.3491 Assessment Map number: 40030084000700 Assessed Value: \$187,100.00

Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 43 Ex. #11871 of 2009 JPMORGAN CHASE BANK, N.A. SUCCESSOR IN INTEREST TO WASHINGTON MUTUAL BANK, Plaintiff V.

#### WILLIAM TAIT SANDRA J. TAIT, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 11871-09 IPMORGAN CHASE BANK N.A. SUCCESSOR IN INTEREST TO WASHINGTON MUTUAL BANK vs WILLIAM TAIT and SANDRA J. TAIT Amount Due: \$54,445,68 WILLIAM TAIT and SANDRA J. TAIT, owner(s) of property situated in Township of Erie City, Erie County, Pennsylvania being 1308 WEST 24TH STREET, ERIE, PA 16502-2336 Dimensions: 64 X 128.5 Acreage: 0.1888 Assessment Map number: 19062003010000 Assessed Value: 39,030.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

SALE NO. 44 Ex. #15388 of 2008 BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWABS ASSET-BACKED CERTIFICATES TRUST 2005-BC4, Plaintiff v. SANDRA J. WITOSKY, Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 15388-08 BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATEHOLDERS CWABS ASSET-BACKED CERTIFICATES TRUST 2005-BC4 vs. SANDRA J. WITOSKY Amount Due: \$74.036.93 SANDRA J. WITOSKY, owner(s) of property situated in Erie County, Pennsylvania being 956 WEST 35TH STREET, ERIE, PA 16508-2514 Dimensions: 45.5 x 135 Acreage: 0.1410 Assessment Map number: 19-6113-214 Assessed Value: \$44,120.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000

Jan. 29 and Feb. 5, 12

#### SALE NO. 45 Ex. #11391 of 2004 CITIFINANCIAL MORTGAGE COMPANY, INC., Plaintiff v.

DAVID J. WROBLEWSKI MARGARET L. WROBLEWSKI, Defendant(s) <u>SHERIFF'S SALE</u>

By virtue of a Writ of Execution filed to No. 11391-04 CITIFINANCIAL MORTGAGE COMPANY, INC. vs. DAVID J. WROBLEWSKIandMARGARETL WROBLEWSKI Amount Due: \$174,120.67 DAVID J. WROBLEWSKI and MARGARET L. WROBLEWSKI. owner(s) of property situated in the TOWNSHIP OF VENANGO, Erie County, Pennsylvania being 11595 ROUTE 89, WATTSBURG, PA 16442 Parcel: 44003008000103 Acreage: 5.0350 Parcel: 26011031003200 Dimensions: 181.50 x 90 Acreage: 0.3750 Assessment Map number: 44003008000103 & 26011031003200

#### ERIE COUNTY LEGAL JOURNAL LEGAL NOTICE

Parcel: 44003008000103 Assessed Value: \$101,740.00 Parcel: 26011031003200 Assessed Value: \$42,700.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station, Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 46 Ex. #10244 of 2008 THE BANK OF NEW YORK AS SUCCESSOR TO JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, F/K/A THE CHASE MANHATTAN BANK. AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT DATED AS OF AUGUST 1, 2001, AMONG CREDIT-BASED ASSET SERVICING AND SECURITIZATION LLC, RESIDENTIAL ASSET FUNDING CORPORATION, LITTON LOAN SERVICING LP AND THE CHASE MANHATTAN BANK, C-BASS MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2001- CB3, Plaintiff v. GRANT E. ZELLEFROW, Defendant(s) SHERIFF'S SALE By virtue of a Writ of Execution filed to No. 10244-08 THE BANK OF NEW YORK AS SUCCESSOR TO JPMORGAN BANK NATIONAL

CHASE ASSOCIATION, F/K/A THE CHASE MANHATTAN BANK. AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT DATED AS OF AUGUST 1. 2001, AMONG CREDIT-BASED ASSET SERVICING AND SECURITIZATION LLC. RESIDENTIAL ASSET FUNDING CORPORATION, LITTON LOAN SERVICING LPAND THE CHASE MANHATTAN BANK, C-BASS MORTGAGE LOAN ASSET-BACKED CERTIFICATES.

#### COMMON PLEAS COURT

SERIES 2001-CB3 vs. GRANT E. ZELLEFROW Amount Due: \$31,206.03 GRANT E. ZELLEFROW, owner(s) of property situated in Erie County, Pennsylvania being 816 CHERRY STREET, ERIE, PA 16502 Dimensions: 35 X 100 Acreage: .0803 Assessment Map number: 16030035020400 Assessed Value: 33,720.00 Improvement thereon: residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 47 Ex. #14731 of 2006 CHASE HOME FINANCE LLC, Plaintiff V.

#### ANTHONY P. ZEUS, JR. MARY LOU ZEUS (DECEASED), Defendant(s) SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 14731-06 CHASE HOME FINANCE LLC vs. ANTHONY P. ZEUS. JR. AND MARY LOU ZEUS (DECEASED) Amount Due: \$145,920.43 ANTHONY P. ZEUS, JR., owner(s) of property situated in TOWNSHIP OF HARBORCREEK. Erie County. Pennsylvania being 4331 AARON ROAD, ERIE, PA 16511 Dimensions: 80 X 130 Acreage: 0.2388 Assessment number: Map 27001003002601 Assessed Value: 164,960.00 Improvement thereon: Residential Phelan Hallinan & Schmieg, LLP One Penn Center at Suburban Station. Suite 1400 1617 John F. Kennedy Boulevard Philadelphia, PA 19103-1814 (215) 563-7000 Jan. 29 and Feb. 5, 12

SALE NO. 48 Ex. #12829 of 2009 RBS CITIZENS, N.A., F/K/A

#### CITIZENS BANK, N.A., S/B/M CCO MORTGAGE CORP. v.

#### DONNA DAMON ADVERTISING DESCRIPTION

ATC piece or parcel of land sit. in the City of Erie, Co. of Erie, PA, being part of in Lot No. 495 of Square No. 75 in the Second Section of the City of Erie, Co. COMMENCING at a point in the W. line of Plum St., 42 <sup>1</sup>/<sub>2</sub> ft. southerly from the point of intersection of the W. line of Plum St. with the S. line of 10th St.: thence westerly, parallel with 10th St., 41 1/4 ft. to a point; thence southerly, parallel with Plum St., 40 ft. to a point; thence easterly, parallel with 10th St., 41 1/4 ft. to the W. line of Plum St.: thence northerly along the W. line of Plum St., 40 ft. to the place of beg.

SAID piece or parcel of land has erected thereon a two-story frame dwelling house known as 1006 Plum St., Erie, PA 16502 PARCEL No. 16030046020700 Gregory Javardian, Esquire Attorney for Plaintiff 1310 Industrial Boulevard 1st Floor, Suite 101 Southampton, PA 18966 (215) 942-9690

Jan. 29 and Feb. 5, 12

#### SALE NO. 49 Ex. #13952 of 2009 WELLS FARGO BANK, N.A., AS TRUSTEE FOR HOLDERS OF BANK OF AMERICA ALTERNATIVE LOAN TRUST 2006-6 MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-6

#### v. JAMES L. GRILL, A/K/A JAMES LEO GRILL ADVERTISING DESCRIPTION

ATC piece or parcel of land sit. in the City of Erie, Co. of Erie, PA. BEG. at a point in the S. line of 20th St. 99 ft. easterly from the intersection of the S. line of 20th St. with the E. line of Myrtle St.; thence easterly along the S. line of 20th St. 49 ½ ft. to a post; thence, southwardly parallel with Myrtle St. 52.05 ft. to the N. line of Crandall St., thence westerly along the N. line of Crandall St. 49 <sup>1</sup>/<sub>2</sub> ft. to a post; and thence northwardly parallel with Myrtle St. 52.05 ft. to the place of beg. Having erected thereon a frame dwelling house and garage known as 253 W. 20th St., Erie, PA 16502 PARCEL No. 19060006021500 Gregory Javardian, Esquire Attorney for Plaintiff 1310 Industrial Boulevard 1st Floor, Suite 101 Southampton, PA 18966 (215) 942-9690 Jan. 29 and Feb. 5, 12

SALE NO. 50 Ex. #14154 of 2009 WELLS FARGO BANK, N.A., AS TRUSTEE FOR THE HOLDERS OF BANK OF AMERICA ALTERNATIVE LOAN TRUST 2006-6 MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-6

### JAMES L. GRILL A/K/A JAMES LEO GRILL

ADVERTISING DESCRIPTION ATC piece or parcel of land sit. in the City of Erie, Co. of Erie, PA. BEG, at a point in the S. line of 16th St., 85 ft. westwardly from the W. line of Poplar St.; thence southwardly parallel with Poplar St., 55 ft.; thence westwardly parallel with 16th St., 35 ft.; thence northwardly parallel with Poplar St., 55 ft. to the S. line of 16th St.; and thence eastwardly along the S. line of 16th St., 35 ft. HAVING erected thereon a twostory brick dwelling known as 709 W. 16th St., Erie, PA 16502 PARCEL NO. 16030036021700 Gregory Javardian, Esquire Attorney for Plaintiff 1310 Industrial Boulevard 1st Floor. Suite 101 Southampton, PA 18966 (215) 942-9690

Jan. 29 and Feb. 5, 12

SALE NO. 52 Ex. #13106 of 2009 U.S. BANK, NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO LASALLE BANK, N.A., AS TRUSTEE FOR FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2006-FF18, assignce of MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., (MERS) AS NOMINEE FOR FIRST FRANKLIN, A DIVISION OF NATIONAL CITY BANK, Plaintiff, V,

Aimee L. Farley, Defendant SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 2009-13106, U.S. Bank, et al vs. Aimee L. Farley, owner of property situated in Waterford Borough, Erie County, Pennsylvania being 129 East 1st Street, Waterford, PA 16441. Dimensions: 13.974 Sq. Ft. Assessment Number<sup>.</sup> Map 46-009.059.0.003.00 Assess Value figure: \$61,200.00 Improvement thereon: Dwelling Louis P. Vitti. Esquire Attorney for Plaintiff 916 Fifth Avenue Pittsburgh, PA 15219 (412) 281-1725 Jan. 29 and Feb. 5, 12

SALE NO. 53 Ex. #14427 of 2009 WELLS FARGO BANK, N.A. IN TRUST FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF ASSET BACKED SECURITIES CORPORATION HOME EQUITY LOAN TRUST, SERIES OOMC 2005-HE6, Plaintiff

> v. TADD B. BURCH ALLISON R. BURCH, Defendant(s) <u>DESCRIPTION</u>

ALL that certain piece or parcel of land lying and being situate in the Township of North East, County of Erie and State of Pennsylvania, being a part of tract No. 146, bounded and described as follows, to wit: BEGINNING in the center of a road leading from Moorheadville

to Greenfield Townline Road (said road is known as Moorheadville Road) at a distance southerly along the centerline of said road of eight hundred sixty-one and four tenths (861.4) feet from the Sheridan-Burch property line; thence along the centerline of said road in southeasterly direction to a point which is South 19° 0' East, two hundred forty six and three tenths (246.3) feet from the North property line of this description; thence South 71° 0' West, three hundred sixty eight and five tenths (368.5) feet to a point; thence north 19° 0' West, two hundred forty six and three tenths (246.3) feet to a point; thence North 71° 0' East, three hundred thirty nine and five tenths (339.5) feet to the place of beginning, containing two (2) acres of land being the same more or less

SAID premises have erected thereon a dwelling commonly known as 6860 Moorheadville Road, North East, Pennsylvania, 16428 and are further identified by Erie County Assessment Index Number (37) 32-125-3.

PROPERTY ADDRESS: 6860 Mooreheadville Road, North East, PA 16428

Michael T. McKeever, Esq.

Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Jan. 29 and Feb. 5, 12

SALE NO. 54 Ex. #14545 of 2009 WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE FOR SECURITIZED ASSET BACKED RECEIVABLES LLC 2005-OP1 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-OP1, Plaintiff

#### v. CYNTHIA L. COLE, Defendant(s) <u>DESCRIPTION</u>

All those parcels situate in the Township of Girard, County of Erie and State of Pennsylvania, and more particularly described as follows: <u>Parcel No. 1.</u> All that certain piece

or parcel of land situate in the Township, County, and State aforesaid, bounded and described as follows, to-wit: BEGINNING at a point in the South line of Smith Street, 523.25 feet measured Southwesterly along said South line of Smith Street from the center of the cross road leading from the Lake Road at Cranes School House to the Village of Girard: thence in a Southeasterly direction parallel to said cross road about three hundred sixteen and five tenths (316.5) feet to a point in the Northerly property line of F.H. Coates estate; thence in a southwesterly direction and along said Northerly property line of C.A Coates about five hundred twenty three and twenty-five hundredths (523.25) feet to a stake which is on the Southeast corner of a two acre lot conveyed to E.A. Coates by E. Smith by deed dated August 8, 1918; thence Northwesterly along the Easterly line of said two acre lot about three hundred seventeen and seven tenths (317.7) feet to a stake on the South line of Smith Street: thence in a Northeasterly direction and along the South line of Smith Street about five hundred twentythree and twenty-five hundredths (523.25) feet to the place beginning, containing three and seven tenths (3.7) acres of land, be the same more or less: ALSO. Parcel No. 2. All that Certain piece or parcel of land situate in the Township, County, and State aforesaid, bounded and described as follows, to-wit: BEGINNING at a point where the South line of Smith Street intersects the centerline of the cross road leading from Cranes School House on Lake Road to the Village of Girard; thence in a Southeasterly direction and along the centerline of said cross road.

hundred twenty-three and twentyfive hundredths (523.25) feet to the place beginning, containing three and seven tenths (3.7) acres of land, be the same more or less. Excepting and reserving from this dead, are hundred (100) feet of land

deed, one hundred (100) feet of land taken from the Southerly part of Parcel No. 2 hereinbefore described, said one hundred (100) feet being more specifically described in a deed from George Hubert Golden and Marian Alice Golden, his wife, to Ronald Golden, said deed being recorded in the Recorder of Deeds Office of Erie County, Pennsylvania, in Deed Book 797, at page 257.

PROPERTY ADDRESS: 2034 Nursery Road, Lake City, PA 16423 Michael T. McKeever, Esq.

Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Jan. 29 and Feb. 5, 12

#### SALE NO. 55 Ex. #12772 of 2009 CITIFINANCIAL SERVICES, INC, Plaintiff

#### KIMBERLY A. KABASINSKI, Defendant(s) DESCRIPTION

ALL that certain parcel of land situate in the City of Erie, County of Erie and State of Pennsylvania, beginning at an iron survey point at the Northeast corner of the intersection of East 32nd street with Pennsylvania Avenue, thence Northerly along Pennsylvania Avenue forty-five (45) feet to a point; thence Easterly parallel to East 32nd Street for a distance of One Hundred Thirty-four (134) feet to a point, thence southerly parallel to Pennsylvania Avenue for a distance of Forty-five (45) feet to a point; thence Westerly along the Northern line of East 32nd Street for a distance of One Hundred Thirtyfour (134) feet to the starting point, being part of Lot Nos. 109, 112, 113. 116 in what is known as No.

three hundred fourteen and five

tenths (314.5) feet to the Northeast

corner of the Premises of Coates:

thence in a Southeasterly direction

and along the Northerly line of said

Coates property about five hundred

hundredths (523.25) feet; thence

in a Northwesterly direction about

three hundred sixteen and five-

and

twenty-five

twenty-three

tenths (316.5) feet to the South line

of Smith Street; thence along the

South line of Smith Street about five

10 Subdivision by Andrews Land Company, part of a reserve Tract No. 34 as shown upon a map of said subdivision recorded in the Office of the Recorder of Deeds for Erie County, in Map Book No. 2, pages 104-105. Part of Erie County Index No. 5047-222. Having erected thereon a dwelling house commonly known as 3123 Pennsylvania Avenue, Erie, Pennsylvania, being part of the same premises conveyed Kabasinski Leonard to and Kimberly A. Kabasinski by deed dated August 5, 1977 and recorded in Erie County Deed Book 1274, page 556.

BEING the same premises which Duane Kreger and Susan Kreger, husband and wife, by Deed dated 08/05/77 and recorded 08/05/77 in the Office of the Recorder of Deeds in and for Erie County, in Deed Book 1274 Page 556, granted and conveyed unto Leonard and Kimberly Kabasinski, husband and wife.

PARCEL #: 5047-222

PROPERTY ADDRESS: 3123 Penna Avenue, Erie, PA 16404 Michael T. McKeever, Esq. Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Jan. 29 and Feb. 5, 12

#### SALE NO. 56 Ex. #14257 of 2009 BAC HOME LOANS SERVICING, LP FKA COUNTRYWIDE HOME LOANS SERVICING LP, Plaintiff V.

#### CHRISTOPHER J. KAVANAGH, Defendant(s) <u>DESCRIPTION</u>

ALL THAT CERTAIN piece or parcel of land situate in the City of Erie, County of Erie and Commonwealth of Pennsylvania, being the eastwardly one-half of In Lot No. 3114 in Square No. 11, bounded and described as follows, to-wit: BEGINNING at a point in the northerly line of Third Street, distant along the same eighty-two and one-half (82 ½) feet Westerly from the intersection of said line with the westerly line of Poplar Street; thence Northwardly parallel with Poplar Street, one hundred (165)sixty-five feet: thence Westwardly parallel with Third Street, forty-one and one-fourth (41 <sup>1</sup>/<sub>4</sub>) feet; thence Southwardly parallel with Poplar Street one hundred sixty-five (165) feet to the north line of Third Street: thence Eastwardly along the North line of Third Street, forty-one and one-fourth (41 1/4) feet to the place of beginning; having erected thereon a dwelling commonly known as 712 West 3rd Street, Erie, Pennsylvania and being further identified as Index No. (17) 4024-226 TAX PARCEL NO .: (17) 4024-226 PROPERTY ADDRESS: 712 West 3rd Street, Erie, PA 16507 Michael T. McKeever, Esq.

Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322 Jan. 29 and Feb. 5, 12

#### SALE NO. 57 Ex. #13915 of 2009 MIDFIRST BANK, Plaintiff v. ELIZABETH J. LUNGER JR

DENNIS L. LUNGER JR., Defendant(s) <u>DESCRIPTION</u>

All that certain piece or parcel of land situate in the Fourth Ward of the City of Corry, County of Erie, Commonwealth of Pennsylvania, bounded and described as follows; Beginning at a point in the center of West Church Street, such point being the southeast corner of land formerly owned by Hannah P. Brown; Thence northerly along the land of Hannah P. Brown 159 feet to land now or formerly of Raymond C. Ecklund; Thence easterly along land now or formerly to said Ecklund 59-1/2 feet to a point; Thence southerly along land now or formerly of Edward P. Rossbacher and Elsie Rossbacher, 159 feet to the center of West Church Street; Thence westerly along the center of West Church Street 59-1/2 to the place of beginning. Commonly known

as 555 West Church Street, Corry, Pennsylvania bearing Erie County Tax Index Number (8) 34-137-17. Under and Subject to all easements, restrictions and rights of way of

record and/or those that are visible to the physical inspection.

Together with all and singular the rights, liberties, privileges, hereditaments, improvements and appurtenances, whatsoever thereto belonging, and reversions and remainders, rent, issues and profits thereof; and also, all the estate and interest whatsoever of the said Grantors, in law or equity, of, in, to or out of the same.

PROPERTY ADDRESS: 555 West Church Street, Corry, PA 16407

Michael T. McKeever, Esq.

Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106

(215) 627-1322

Jan. 29 and Feb. 5, 12

#### SALE NO. 58 Ex. #10694 of 2009 COUNTRYWIDE HOME LOANS SERVICING, L.P., Plainter V.

#### JON A. MASON, Defendant(s) <u>DESCRIPTION</u>

ALL that certain piece or parcel of land situate in the City of Erie, County of Erie, State of Pennsylvania, more particularly bounded and described as follows, to-wit;

BEGINNING at a point in the north line of east Twenty-fourth Street. two hundred ten (210) feet west of the west line of Wayne Street as now laid out and open on the ground as fifty (50) foot wide street: Thence north, parallel with Wayne Street, One hundred thirty-five (135) feet; thence West, parallel with East Twenty-fourth Street, thirty-six (36) feet, eight (8) inches: thence south parallel with Wayne Street, one hundred thirty-five (135) feet to the North line of East Twenty-fourth Street; thence East, along the North line of East Twenty-fourth Street. thirty-six (36) feet, eight (8) inches to the place of beginning.

Having erected thereon a two-

family dwelling commonly known as 740 East 24th Street, Erie, Pennsylvania and being further identified by Erie County Tax Index No. (18) 5030-129. TAX PARCEL NO.: (18) 5030-129 PROPERTY ADDRESS: 740 East 24th Street, Erie, PA 16503 Michael T. McKeever, Esq. Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Jan. 29 and Feb. 5, 12

SALE NO. 59 Ex. #14399 of 2009 JP MORGAN CHASE, N.A., AS ACQUIRER OF CERTAIN ASSETS AND LIABILITIES OF WASHINGTON MUTUAL BANK FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION ACTING AS RECEIVER F/K/A WASHINGTON MUTUAL BANK S/B/M PNC MORTGAGE CORPORATION OF AMERICA, Plaintiff

#### v.

#### MARIA L. REYES, Defendant(s) DESCRIPTION

ALL that certain piece or parcel of land situate in the City of Erie, County of Erie and State of Pennsylvania, bounded and described as follows. to-wit: Commencing at the intersection of the westerly line of Pennsylvania Avenue with the Northerly line of Twenty Fourth Street; thence Westwardly along the Northerly line of Twenty Fourth Street, fifty (50) feet; thence Northerly parallel with Pennsylvania Avenue, One hundred thirty five (135) feet; thence parallel with Twenty Easterly Fourth Street fifty (50) feet to the West line of Pennsylvania Avenue: and thence Southerly along the West line of Pennsylvania Avenue. One Hundred Thirty five (135) feet to the place of beginning, being Lot Number thirty (30) in Block C in the plot of Warfel Subdivision as shown in Map Book 3, page 41. Having erected thereon a one and one-half story frame dwelling known and numbered as No. 1060 East Twenty

Fourth Street, Erie, Pennsylvania. Said property bearing Erie County Tax Index No. (18) 50-41-100. TAX PARCEL: (18) 50-41-100 Being the same premises conveyed to Mortgagor by deed intended to be recorded forthwith. PROPERTY ADDRESS: 1060 East 24th Street, Erie, PA 16504 Michael T. McKeever, Esq. Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322 Jan. 29 and Feb. 5. 12

SALE NO. 60 Ex. #11395 of 2009 CITIMORTGAGE, INC. S/B/M CITIFINANCIAL MORTGAGE COMPANY, INC, Plaintiff

#### EDUARDO SANTIAGO SILVIA SANTIAGO A/K/A SILVIA R. SANTIAGO, Defendant(s) DESCRIPTION

v.

All that certain piece or parcel of land situate in the Sixth Ward of the City of Erie, County of Erie and State of Pennsylvania, bounded and described as follows, to-wit:

BEGINNING at a point in the East line of Poplar (formerly Laurel) Street, 294 feet South of the South line of Twenty-ninth Street; thence Eastwardly and parallel with Twenty-ninth Street, 125.67 feet to an Allev: thence Southwardly and parallel with Poplar (formerly Laurel) Street, 38 feet; thence Westwardly and parallel with Twenty-ninth Street, 125.67 feet to the East line of Poplar (formerly Laurel) Street, thence Northwardly 38 feet to the place of beginning, being Subdivision No. 53 of the Froess Subdivision of part of Purpart No. 7. Reserve Tract No. 29 as recorded in the Recorder's Office, Erie County Map Book 2, Page 9. Partial Plot of Froess Subdivision of Part of Purpart No. 7. of Tract No. 29. Erie Pennsylvania, as recorded October 30, 1912 in Map Book 2. Page 9. Having erected thereon a two story dwelling with detached one car garage being more commonly

known as 2931 Poplar Street, Erie, Pennsylvania and bearing Erie County PROPERTY ADDRESS: 2931 Poplar Street, Erie, PA 16508 Michael T. McKeever, Esq. Suite 5000 - Mellon Independence Center, 701 Market Street Philadelphia, PA 19106 (215) 627-7734 Jan. 29 and Feb. 5, 12

SALE NO. 61 Ex. #14021 of 2009 CITIMORTGAGE, INC., Plaintiff

#### BEVERLY A. YOKOFF MICHAEL K. YOKOFF, Defendant(s) <u>DESCRIPTION</u>

ALL the certain tract, parcel or piece of land situate in the Borough of Wesleyville (formerly Township of Harborcreek), County of Erie and Commonwealth of Pennsylvania, being Lots Numbers 33 and 34 of College Heights Subdivision on the Shannon Road, as appears in Map Book Number 2, at pages 4 and 5. HAVING erected thereon a 1 1/2 story aluminum sided dwelling commonly known as 2935 East 30th Street, Erie, Pennsylvania 16510 and bearing Erie County Tax Index No. (50) 5-64-3 for the Borough of Wesleyville.

TAX PARCEL NO.: (50) 5-64-3 PROPERTY ADDRESS: 2935 East 30th Street, Erie, PA 16510 Michael T. McKeever, Esq. Suite 5000 - Mellon Independence

Center, 701 Market Street Philadelphia, PA 19106 (215) 627-1322

Jan. 29 and Feb. 5, 12

SALE NO. 62 Ex. #14323 of 2007 Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Company of Pennsylvania v. Marcus DeSantis a/k/a Marcus L. DeSantis and Elizetta DeSantis a/k/a Elizetta L. DeSantis SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 14323-07 Beneficial Consumer Discount Company Mortgage d/b/a Beneficial Company of Pennsylvania v. Marcus DeSantis a/k/a Marcus L. DeSantis and Elizetta DeSantis a/k/a Elizetta L. DeSantis, owners of property situated in the Township of Hillcreek [sic], Erie County, Pennsylvania being 3654 W. Lake Road, Erie, Pennsylvania 16505. Tax I.D. No. 33-006-022.0-014.00

Assessment: \$ 106,051.13 Improvements: Residential

Dwelling Ke

McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080 Philadelphia, PA 19109

Jan. 29 and Feb. 5, 12

SALE NO. 63 Ex. #13793 of 2009 Everhome Mortgage Company

> v. Timothy C. Morgan and Janie E. Morgan <u>SHORT DESCRIPTION</u>

By virtue of a Writ of Execution filed to No. 13793-2009, Everhome Mortgage Company v. Timothy C. Morgan and Janie E. Morgan, owners of property situated in the Township of Lawrence Park, Erie County, Pennsylvania being 1053 Priestley Avenue, Erie, Pennsylvania 16511.

Tax I.D. No. (29) 018-05600-4200 Assessment: \$ 54,637.18

Improvements: Residential Dwelling

McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080 Philadelphia, PA 19109

Jan. 29 and Feb. 5, 12

SALE NO. 64 Ex. #13917 of 2009 BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing LP V.

> Jaimie Schaff and Brian R. Schaff SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 13917-09, BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing LP v. Jaimie Schaff and Brian R. Schaff, owners of property situated in the Township of North East, Erie County, Pennsylvania being 4137 Route 89, North East, Pennsylvania 16428. Tax I.D. No. 37-23-91-32 Assessment: \$ 122,810.26 Improvements: Residential Dwelling McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080 Philadelphia, PA 19109

Jan. 29 and Feb. 5, 12

#### SALE NO. 65 Ex. #13683 of 2009

HSBC Mortgage Services, Inc.

v.

#### Timothy W. Smith SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 13683-09, HSBC Mortgage Services, Inc. v. Timothy W. Smith, owners of property situated in the Township of City of Erie, Erie County, Pennsylvania being 938 Colony Drive, Erie, Pennsylvania 16505. Tax I.D. No. 16-031-039.0-304.00 Assessment: \$117,021.50 Improvements: Residential Dwelling McCabe, Weisberg and Conway, P.C. 123 South Broad Street, Suite 2080 Philadelphia, PA 19109 Jan. 29 and Feb. 5, 12

### 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>20</u>	<u>10 ESTATE</u>	<u>ACCOUNTANT</u>	<b>ATTORNEY</b>	
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				

Clerk of Records Register of Wills & Orphans' Court Division

Jan. 22, 29

#### 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

#### BATEMAN, LILLIAN M., a/k/a LILLIAN BATEMAN, deceased

Late of Elk Creek Township, Erie County, Pennsylvania

*Co-Executors:* James R. Davis, 394 Westchester Drive SE, Warren, OH 44484 and Janet R. Davis Rodney, 3186 Rohl Road, North East, PA 16428

*Attorney:* Scales Law Office, LLC, 115 South Washington Street, Room 206, P.O. Box 346, Titusville, PA 16354

#### BIFULCO, MARGARET N., a/k/a MARGARET P. BIFULCO, dagagad

#### deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania *Executrix:* Barbara A. Skonieczki,

c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

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

#### BIGWOOD, ALBERTA E.,

#### a/k/a ALBERTA ELIZABETH BIGWOOD, a/k/a ALBERTA BIGWOOD, deceased

Late of the City of Erie, County of Erie, State of Pennsylvania *Executor:* Gary E. Bigwood, 3128 West 25th Street, Erie, Pennsylvania 16506 *Attorney:* James R. Steadman, Esq., 24 Main St. E., Girard, Pennsylvania 16417

#### BUZANOWSKI, SUSAN S., a/k/a SUSAN ROMANCE BUZANOWSKI.

#### deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania *Executor:* Carolyn S. Cullen, 3226 NE 92nd St., Seattle, WA 98115

Attorney: Brian M. McGowan, Esq., 425 West 10th St., Ste. 201, Erie. PA 16502

#### CALKINS, LUCY P., a/k/a LUCY PARADISE CALKINS, deceased

Late of the Township of Harborcreek, County of Erie, and Commonwealth of Pennsylvania *Executor:* Veryl J. Calkins, 7037 Station Road, Erie, Pennsylvania 16510

*Attorney:* Robert E. McBride, Esquire, 32 West Eighth Street, Suite 600, Erie, Pennsylvania 16501

#### FULGENZIO, ARTURO, a/k/a ARTHUR FULGENZIO, deceased

Late of Erie City, Erie County, Pennsylvania Executrix: Teresa P. Giammario, 1314 West 30th Street, Erie, Pennsylvania 16508 Attorney: John R. Falcone, Esq., The Gideon Ball House, 135 East

6th Street, Erie, Pennsylvania 16501

#### KERNER, VIRGINIA T., a/k/a VIRGINIA C. KERNER, deceased

Late of Harborcreek Township, County of Erie and Commonwealth of Pennsylvania *Co-Executors:* Linda Milton and Rebecca Kathman

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

### MANROSS, MARIE E.,

deceased

Late of Union City Borough, Erie County, Pennsylvania *Executrix:* Carol Fielding c/o

Paul J. Carney, Jr., Esquire, 43 North Main Street, Union City, Pennsylvania 16438

*Attorney:* Paul J. Carney, Jr., Esquire, 43 North Main Street, Union City, Pennsylvania 16438

#### MILLS, GEORGE M., a/k/a GEORGE MERRITT, deceased

Late of the Township of Millcreek, County of Erie, and Commonwealth of Pennsylvania *Executrix:* Cynthia Freligh, 721 Mineo Drive, Erie, Pennsylvania 16509

*Attorney:* Robert E. McBride, Esquire, 32 West Eighth Street, Suite 600, Erie, Pennsylvania 16501

### NAGLE, WILMA D.,

#### deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania *Executors:* Douglas B. Nagle III, 17813 Hibiscus Cove Court, Punta Gorda, FL 33955-4678 and Richard W. Nagle, 250 Collman Road, Fairview, PA 16415-1642 *Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

## SLATER, BRODERICK E., deceased

Late of Fairview, PA Executor: Mark A. Slater, 1716 Campus Dr., Vestal, NY 13850 Attorney: None

#### SECOND 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

#### ORPHANS' COURT

## 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

#### 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, decensed

#### 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 *Executor:* James Vogt, c/o 504 State Street, Suite 300, Erie, PA 16501

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

#### ORPHANS' COURT

### WARLEY, REITA M., deceased

Late of the Township of Fairview, County of Erie, State of Pennsylvania *Executor:* 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

#### THIRD 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,

*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

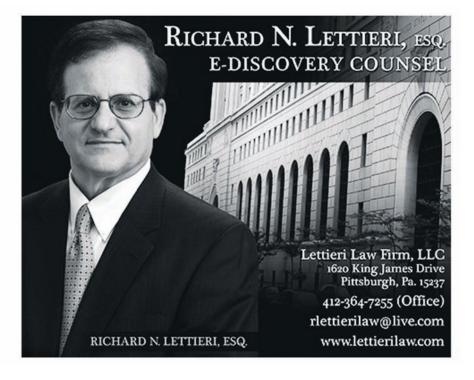
Late of the Borough of Wesleyville, County of Erie, Pennsylvania *Executrix:* Joyce Harper, c/o Thomas E. Larson, 2820 W. 23rd St., Suite 101, Erie, PA 16506

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



### CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

Mark A. Goldstein, Esq Goldstein and Associates 1125 Penn Avenue, 3rd Floor Pittsburgh, PA 15222	(f) (412) 258-8088
Honorable Daniel J. Brabender, Jr Erie County Court House	(814) 451-6294
140 West Sixth Street, Room 221 Erie, PA 16501	dbrabender@eriecountygov.org
<u>New Email</u> Timothy D. McNair	tmcnair@mcnairlaw.com
Effective February 1, 2010 Raquel L. Taylor, Esq Taylor & Taylor 2525 West 26th Street, Suite 202 Erie, PA 16506	(f) (814) 835-0401

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?

Technology that allows you to conduct business face-to-face with others who are in a different city, state or country - as if they were in the room with you. The audio and video are crisp, clear and immediate.

## WHAT ARE THE BENEFITS OF VIDEOCONFERENCING?

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- Your connection to the world of communication.

It is available to our members and to the business community.

#### WHAT CAN VIDEOCONFERENCING BE USED FOR?

Depositions, examination of expert witnesses, job interviews, business meetings and seminars are common examples.

#### 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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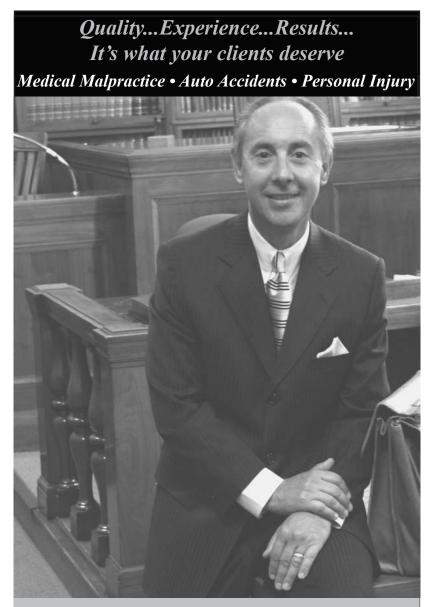
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