

Erie County Legal Journal

May 6, 2011

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In the United States Bankruptcy Court for the Western District of Pennsylvania
In re Ciotti

Erie County Legal Journal

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

Managing Editor: Heidi M. Weismiller
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Erie County Bar Association

Calendar of Events and Seminars

TUESDAY, MAY 10, 2011

Winning Numbers: Accounting & Finance for Lawyers
PBI Video Seminar
Erie County Bar Association
9:00 a.m. – 5:00 p.m. (8:30 a.m. reg.)
\$319 (member) \$299 (admitted after 1/1/07)
\$339 (nonmember)
5 hours substantive / 1 hour ethics

THURSDAY, MAY 12, 2011

An Economic Development Roundtable: What resources are available for businesses in Erie, PA
ECBA Live Seminar
Bayfront Convention Center
7:30 a.m. – 9:30 a.m. (7:15 a.m. reg.)
Free - to local business owners, their attorneys (w/out CLE), their CFOs and other business advisors (Reservations requested)
\$64 - ECBA members wanting CLE
\$96 - Non-member attorneys wanting CLE
2 hours substantive

THURSDAY, MAY 12, 2011

Bad Faith Claims Litigation
PBI Groupcast Seminar
Erie County Bar Association
12:00 p.m. – 4:15 p.m. (11:30 a.m. reg.)
Lunch is Included
\$254 (member) \$234 (admitted after 1/1/07)
\$274 (nonmember)
Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:
\$229 (member) \$209 (admitted after 1/1/07) \$249 (nonmember)
4 hours substantive

FRIDAY, MAY 13, 2011

Tough Problems in Workers' Compensation 2011
PBI Groupcast Seminar
Erie County Bar Association
8:30 a.m. – 12:45 p.m. (8:00 a.m. reg.)
\$254 (member) \$234 (admitted after 1/1/07)
\$274 (nonmember)
Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:
\$229 (member) \$209 (admitted after 1/1/07) \$249 (nonmember)
4 hours substantive

THURSDAY, MAY 19, 2011

Presentation of a Custody Evaluation in a Complex Custody Trial
PBI Groupcast Seminar
Erie County Bar Association
8:30 a.m. – 4:30 p.m. (8:00 a.m. reg.)
Lunch is Included
\$274 (member) \$254 (admitted after 1/1/07)
\$294 (nonmember)
Early Registration - If you register more than 2 days before this presentation you will qualify for this Early Registration Fee:
\$249 (member) \$229 (admitted after 1/1/07) \$269 (nonmember)
5 hours substantive / 1 ethics

FRIDAY, MAY 20, 2011

Trial Evidence: Artistry & Advocacy in the Courtroom
PBI Groupcast Seminar
Erie County Bar Association
8:30 a.m. – 3:30 p.m. (8:00 a.m. reg.)
Lunch is Included
\$344 (member) \$324 (admitted after 1/1/07)
\$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 1/1/07) \$339 (nonmember)
6 hours substantive

WEDNESDAY, MAY 25, 2011

PA's New Adoption Amendments
PBI Groupcast Seminar
Erie County Bar Association
9:00 a.m. – 12:15 p.m. (8:30 a.m. reg.)
\$224 (member) \$204 (admitted after 1/1/07)
\$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 1/1/07) \$219 (nonmember)
2 hours substantive / 1 ethics

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In Memoriam



Thomas C. Mangan

September 22, 1925 - April 14, 2011

Attorney Thomas C. Mangan passed away Thursday, April 14, 2011 at the age of 85. He was born on September 22, 1925 in Cumberland, MD to the late Mark A. and Celia Motley Mangan.

Tom joined the Army in 1943 and was wounded in battle at Auw, Germany.

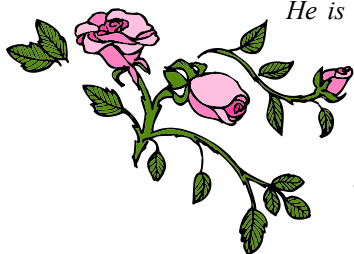
He graduated from Georgetown University's Law School and was a member of the Pennsylvania Bar Association for over 50 years. He resided in the Erie area for 60 years and served as a Vice President and trust officer of Union Bank. He retired from the practice of law as an Attorney for Richards & Associates.

Tom was very active in the Erie community. He was a life member and Past President of the Erie Maennerchor club; Past President, coach, and manager for Erie Youth Hockey Association; Past President, member of the Board and Man of the Year award recipient for the Boys & Girls Club of Erie; Board of Directors for the United Way of Erie County, Past President of the Sertoma Club; Charter member of Saints & Sinners; and Past President and Board member for the Harborcreek School for Boys. Tom enjoyed Duck Pin bowling, golf, sailing and ice hockey.

He was preceded in death by his parents and his wife Joan Marnella Mangan. Tom is the loving father of Mark Mangan and his wife Deneen of Ormond Beach, FL; Shelly Cunningham and her husband Tim of Erie; Jeffery Mangan of Erie; T. Sean Mangan and his wife Stephanie of Knoxville, TN, and James Mangan and his wife Lynne of Chagrin Falls, OH. He is the brother of Robert Mangan of Erie and John (Jack) Mangan of N.Y.

He is also survived by his cherished grandchildren; Brittany, Kyle, Kellie Mangan; Joshua, Sarah, Zachary, Sean Cunningham; Griffin Mangan; Alec & Rachel Mangan.

Memorial contributions may be made to the Erie Boys & Girls Club or the Disabled American Veterans.



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

MAY 2011 NOTICE

The following is a list of *May through July 2011* motion court dates and times to be used for the scheduling of motions pursuant to *Local Rule 9013-5(A)* before **Chief Judge Thomas P. Agresti** in the Erie Division of the Court. The use of these dates for scheduling motions consistent with the requirements of *Local Rule 9013-5(A)* is summarized below and on Chief Judge Agresti's website at: www.pawb.uscourts.gov. ***The motions will be heard in the Bankruptcy Courtroom, U.S. Courthouse, 17 South Park Row, Erie, PA 16501.***

ERIE CH. 13 AND CH. 7 CASES

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

Scheduling of CHAPTER 13 Motions before Chief Judge Thomas P. Agresti

Wednesday, May 18, 2011	1:30 p.m.: Open for all Erie matters
Wednesday, June 8, 2011	2:00 p.m.: Open for all Erie matters
Wednesday, June 29, 2011	2:30 p.m.: Open for all Erie matters*
Wednesday, July 20, 2011	* ALL Chapter 12 matters are to be scheduled for 2:30 p.m. Sale, Financing and Extend/Impose Stay Motions also scheduled at 2:30 p.m.

Scheduling of CHAPTER 7 Motions before Chief Judge Thomas P. Agresti

Thursday, May 10, 2011	10:30 a.m.: Open for all Erie matters
Thursday, May 19, 2011	11:00 a.m.: Open for all Erie matters**
Thursday, June 9, 2011	11:30 a.m.: Sale Motions at this time, only
Thursday, June 23, 2011	
Thursday, July 14, 2011	**All Motions to Extend/Impose Stay are to be scheduled at 11:00 a.m.
Thursday, July 28, 2011	

ERIE CHAPTER 11 CASES

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

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

John J. Horner
Clerk of Court

May 6

IN RE: CARMEN V. CIOTTI, Debtor

JOHN C. MELARAGNO, TRUSTEE AND BOUBACAR BARRY, Plaintiffs

v.

CARMEN V. CIOTTI, Defendant

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

Case No. 09-11786-TPA

Chapter 7

Adversary No. 09-1152-TPA

Document No. 15

Appearances: John C. Melaragno, Esq., for the Chapter 7 Trustee
Jay R. Stranahan, Esq., for the Debtor
Boubacar Barry, Plaintiff Pro Se

MEMORANDUM OPINION

Agresti, Thomas P., Chief Judge April 18, 2011

On September 20, 2009, the Debtor, Carmen V. Ciotti, filed a voluntary Petition under Chapter 7 of the *Bankruptcy Code*. Currently before the Court is an *Amended Complaint to Determine the Dischargeability of a Debt* (“Complaint”) filed by Plaintiffs, John C. Melaragno, Trustee (“Trustee”) and Boubacar Barry (“Barry”). While the pleadings are somewhat confusing as to the nature of the relief being sought, all Parties agree that this is an action in which the Plaintiffs seek to deny the Debtor a discharge under *11 U.S.C. §727 (a)(2)(A) and §727 (a)(4)(A)*.¹

On November 29, 2010, trial on the *Complaint* commenced but was suspended after the Debtor invoked his *Fifth Amendment* right against self-incrimination on a blanket basis to nearly all questions. After issuance of a *Memorandum Order* dated January 18, 2011, ruling on the continued exercise of the Debtor’s invocation of his *Fifth Amendment* privilege, trial reconvened and concluded on February 8, 2011. The Debtor was recalled as a witness and testified, answering each question without *Fifth Amendment* assertion. The Parties have filed post-trial briefs and the matter is now ready for decision. For the reasons stated herein, the Court finds that the Plaintiffs have failed to meet their burden of proving the elements of *Section 727(a)(2)(A)* and *Section 727(a)(4)(A)* and therefore, the *Complaint* must be dismissed.

FINDINGS OF FACT

The Debtor and his wife filed a prior Chapter 7 case on May 10, 2000, at Case Number 00-10818. It was a simple, no asset case. The Debtor and his wife received a discharge and the case was closed on September 28, 2000.²

On April 9, 2009, Barry obtained a default judgment from the Magisterial District Court

¹ The Court’s jurisdiction under *28 U.S.C. §§157 and 1334* was not at issue. This is a core proceeding pursuant to *28 U.S.C. §157(b)(2)(J)*. This *Opinion* constitutes the Court’s findings of fact and conclusions of law pursuant to *Fed.R.Bankr.P. 7052*.

² The same attorney who represented the Debtor and his wife in the prior bankruptcy also filed the present case on behalf of the Debtor. After the present case was filed the attorney was elected to the position of a judge in the Court of Common Pleas of Erie County, Pennsylvania and his involvement in this case was terminated on June 18, 2010. Current counsel, from the same law firm, has represented the Debtor in this Adversary Proceeding.

against the Debtor. On July 2, 2009, the judgment was entered in the Erie County Court of Common Pleas. On that same date, Barry executed a Praecipe for a Writ of Execution (the “Writ”) in hopes of collecting on his judgment. The Writ describes the property subject to execution as a “White Dodge Truck, License # YXC - 4323.” The Erie County Sheriff attempted to execute on the Writ, but the effort was unsuccessful because the Sheriff’s Department was unable to locate the Debtor. The Writ was never served on the Debtor and he was not aware of its existence prior to the filing of this bankruptcy case. Although other creditors held judgments against the Debtor, unlike Barry, none of them actively pursued collection.

At the time the Writ was issued, the Debtor did own a 1998 Dodge Ram truck as described in the Writ. The truck was in poor condition and barely operable. On July 29, 2009, the Debtor drove the truck to the City Auction House in West Springfield, Pennsylvania, stopping several times along the way to fill the radiator with water. It was sold that same day at auction for \$1,250. The Debtor then transferred the proceeds from the sale to his wife, from whom he was separated at the time, to assist in the support of their children and her.

As suggested above, the Debtor’s financial fortunes did not improve after his first bankruptcy case. At the time of filing of the present case in September 2009, the Debtor listed on Schedule I that he only had temporary employment for two months as a carpenter. On his Statement of Financial Affairs, the Debtor stated at Question No. 1, that in 2007 and 2008 he was a selfemployed “remodeler” earning income of \$11,011 and \$18,071, respectively. Schedules A and B reveal that at the time of filing, the Debtor owned only modest assets consisting of his residence at 534 West 16th Street, Erie, Pennsylvania valued at \$20,000, which the Debtor inherited from his mother, and personal property consisting of household goods and wearing apparel, with a total value of \$450. The Debtor’s focus and the reason for the filing of the present case was to protect the 534 West 16th Street property in which he has resided at all times relevant to this case.

The Debtor listed no secured obligations and claimed all of his property as exempt.³ The Debtor also listed creditors holding unsecured nonpriority claims in the amount of \$194,368, many of which he identified as “trade debt,” and including certain creditors, among them, Barry, who had obtained judgments against him prior to his filing.

On November 4, 2009, the First Meeting of Creditors pursuant to 11 U.S.C. §341 was held. The Debtor was placed under oath and questioned by the Trustee and by Barry, *inter alia*, about the accuracy of his bankruptcy schedules and the transfer of the truck. The transcript of the §341 Meeting reflects some confusion and misunderstanding by the Debtor as to the meaning of “transfer” and the meaning of “property” in the context in which they were used. The Debtor initially answered “no” to the question of whether “[i]n the past five years prior to your bankruptcy filing, did you give away or transfer any of your property to anyone else?” However, upon further questioning by the Trustee concerning the truck the

³ The Debtor listed obligations owed to Erie County Tax Claim Bureau and Erie Water Works as unsecured priority claims. In reality, these creditors likely hold secured claims against the Debtor’s residence. Similarly, the judgment filed in the Court of Common Pleas of Erie County, PA, by Plaintiff Barry on July 2, 2009, and, previously referred to in this *Opinion*, would also appear to be a secured claim/lien against the Debtor’s real estate.

Debtor testified as follows:

Q. Do you have a vehicle?

A. No

Q. What happened to your truck?

A. It broke down. (Inaudible.)

Q. I'm sorry?

A. It wasn't running. I got rid of it.

Q. When?

A. Oh, about six months ago (inaudible). It wasn't running.

Q. Well, previously I asked you if you transferred any of your property, and you said no. So now you're telling me, yes, you did?

Debtor Atty.: You didn't actually transfer it to anybody, did you?

A. No, no.

Q. Where's the truck?

A. That, I don't really know. I sold it at an auction.

See Ex. F, Tr. of 11/4/2009 Section 341 Meeting of Creditors at 9-10. The Debtor further testified that he had no knowledge that the Writ had been issued or that there was a levy against the truck at the time it was sold.

As noted, Barry also questioned the Debtor. In response, the Debtor testified that although he had knowledge of the existence of Barry's judgment, he had no knowledge of the Writ or that anyone was looking for the truck. At the conclusion of his questions at the §341 Meeting, the Trustee indicated to Debtor's Counsel that he was required to amend the schedules and the Statement of Financial Affairs to clarify circumstances surrounding the disposition of the truck and to correct certain other information.

Following the §341 Meeting, on November 23, 2009, Debtor's Counsel filed the requested amendments. In the Amended Statement of Financial Affairs, Counsel erred in describing the circumstances involving the sale of the truck, erroneously listing a "1997 Ford Exconoline" (sic) as the vehicle sold at the Butler Auto Auction on July 2, 2009 for \$1,200. Actually, the "Exconoline" was another vehicle owned by the Debtor that was repossessed by another creditor, without objection, pursuant to an order dated November 10, 2009, granting a motion for relief from stay. A Second Amended Financial Disclosure Statement was then filed on December 18, 2009, this one correctly stating that a 1998 Dodge Ram was sold at City Auction House on July 29, 2009, for \$1,250 and providing a copy of the receipt from the auction company evidencing the sale of the vehicle.

On December 31, 2009, Barry, acting *pro se*, filed an initial Complaint which commenced the within Adversary Proceeding. Barry also filed with the Court a copy of a letter dated December 30th he sent to the Trustee questioning whether the Debtor would be granted a discharge. As directed by the Court, the Trustee filed a Status Report in response to Barry's letter averring that the Trustee had spoken with Barry on numerous occasions, advising him of his right to pursue an objection to the Debtor's discharge and that he should obtain independent legal counsel since the Trustee did not plan to pursue any such claim. Consistent with that approach, on January 14, 2010, the Trustee filed a Report of No

Distribution.⁴ At the initial hearing on Barry's Complaint, the Court directed the Trustee to further investigate the allegations by Barry, and if warranted, directed the Trustee to file an amended complaint which ultimately resulted in the filing of the *Complaint* presently before the Court.

During discovery in the adversary, the Trustee deposed the Debtor. Consistent with his testimony at the §341 Meeting, the Debtor again testified that: (1) his residence was 534 West 16th Street, Erie, PA; (2) he thought "property" meant only "real property" not personal property as well; (3) he believed that "transfer" of property meant that property was transferred without receiving value in return; (4) the Dodge Truck was sold at auction on July 29, 2009; (5) the proceeds were transferred to his estranged spouse for support and he was not aware of the existence of the Writ at the time the truck was sold. The Debtor also testified that the Amended Statement of Financial Affairs which listed an "Exconoline" Truck was an error by his attorney not him.

On February 9, 2011, at trial, the Debtor testified before the Court. The Court was able to observe his demeanor and found his testimony to be generally credible.⁵ The Debtor again stated that: (1) his residence is and has at all relevant times been 534 West 16th Street, Erie; (2) he filed a prior bankruptcy case in 2000; (3) he owns a house and owned a truck which was sold before the present bankruptcy filing; (4) numerous judgments had been entered against him prior to his sale of the truck; (5) when he indicated on his Schedules that he had made no other "transfers" of property, he thought his statement was accurate because he thought "property" meant real estate; (6) upon the sale of the truck, the proceeds were tendered to his wife for support; (7) when he indicated at his deposition that he had not met with his attorney prior to his deposition, he did so because he thought meetings with his attorney were confidential; (8) the first amendment to his schedules which listed the "Exconoline" truck as the vehicle "sold" was an error of counsel whom he relied upon; (9) he did not know of the existence of, or even the issuance of, the Writ prior to the sale of his truck; and, (10) although he knew there were numerous judgments against him, he had been subjected to prior judgments over the years but never lost any property as a result of an effort to satisfy a judgment.

DISCUSSION

A discharge under 11 U.S.C. §727 is the "heart" of the fresh start provided a debtor under bankruptcy law. *Rosen v. Bezner*, 996 F.2d 1527, 1531 (3d Cir. 1993). Denial of a discharge should occur only in extreme circumstances. *In re Corona*, 2010 WL 1382122 at *7 (D. N.J. 2010) citing *In re Cohn*, 54 F.3d 1108, 1113 (3d Cir. 1995); *In re Yanni*, 354 B.R.

⁴ On December 1, 2009, the Trustee had filed a *Report of No Distribution* which was withdrawn on December 4, 2009.

⁵ As the finder of fact, the Court must assess the veracity of witnesses. The importance of first-hand observation of the testimony of a witness is recognized by *Fed.R.Bankr.P. 8013* which provides that findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses. Here, the Debtor appeared genuine, honest and believable in testifying before the Court. His testimony concerning his lack of understanding of the terminology used in the various questions previously posed to him in the context presented, was convincing.

708, 711 (Bankr. E.D. Pa. 2006). As a result, courts are to liberally construe the discharge provisions of the *Bankruptcy Code* in favor of the debtor. *Rosen* at 1531.

A discharge in bankruptcy, however, is meant to discharge only the honest but unfortunate debtor. *Grogan v. Garner*, 498 U.S. 279, 286-87 (1991). In considering an objection to discharge, Plaintiffs maintain the burden of proof and must prove their case by a preponderance of the evidence. *Id.* at 290-91; *In re Georges*, 138 Fed. Appx. 471, 472 (3d Cir. 2005); *Cadle Co. v. Zofko*, 380 B.R. 375, 382 (W.D. Pa. 2007).

Section 727(a)(2)(A)

Section 727(a)(2)(A) provides that a discharge will not be granted where:

[t]he debtor, with intent to hinder, delay, or defraud a creditor...has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed, property of the debtor, within one year before the date of the filing of the petition.

11 U.S.C. § 727(a)(2)(A). To prevail on a cause of action under *Section 727(a)(2)(A)*, the Plaintiffs must show (1) a disposition of property, such as a transfer or concealment; (2) a subjective intent on the debtor's part to hinder, delay, or defraud one or more creditors or the bankruptcy trustee through the disposition; and, (3) that both the disposition and subjective intent occurred within one year before the petition date. *Corona* at *13 citing *Rosen*, 996 F.2d at 1531. A denial of discharge under *Section 727(a)(2)(A)* thus requires both an act, such as a transfer of the debtor's property, and an improper motive, such as actual intent to hinder, delay, or defraud creditors. *Corona* at *13; *In re Hoza*, 373 B.R. 409, 413 (Bankr. W.D. Pa. 2007). Unlike the fraudulent transfer provisions of the *Bankruptcy Code*, there is no concept of a "constructive" fraudulent transfer here. An actual intent to hinder, delay or defraud must be shown. Compare *11 U.S.C. § 727(a)(2)(A)* and *11 U.S.C. § 548(a)(1)*. *In re Rose*, 425 B.R. 145 (Bankr. M.D. Pa. 2010). Because a debtor is unlikely to admit directly that his or her actions were motivated by fraud, intent may be inferred through the use of circumstantial evidence or inferences drawn from a course of conduct by the debtor. *Id.*

Here, Plaintiffs assert that the Debtor is not entitled to a discharge under *Section 727(a)(2)(A)* "as he transferred the 1998 White Dodge Truck with actual intent to hinder, delay, or defraud creditors."⁶ The Debtor does not deny the fact of the transfer or that it occurred within one year of the petition date. The only matter at issue is whether the transfer was made with the intent to hinder, delay or defraud Barry or other creditors.

The Debtor knew that Barry, as well as several others, had obtained judgments against him prior to the sale of the truck. Judgments had been entered against the Debtor in the past, but he had never suffered a loss of property in a creditor's attempt to satisfy a judgment. The Writ was never served on the Debtor and there was no evidence presented to support that the Debtor had any knowledge it had been issued or that anyone was looking for him or the truck.

⁶ *Complaint* ¶ 16.

The Debtor testified that he sold the truck because it was in poor running condition and he lacked the necessary funds to fix and maintain it. He still maintained his ownership interest in his residence and made no attempt to transfer it. Had the truck not been sold, it too, like the Debtor's residence would have been subject to exemption in its entirety in the pending bankruptcy case.

The totality of circumstances leads the Court to conclude that the Debtor did not transfer the truck with the intent to hinder, delay or defraud creditors. As a purely objective matter, there was ample reason why the Debtor would have wanted to sell the truck without a need to invoke the hypothesis that he was doing so to hinder creditors. The Debtor gave uncontradicted testimony that the truck could not be operated for more than 10 minutes before it would have to be stopped and water added to the radiator. Debtor also testified without dispute that he lacked the financial resources to fix the vehicles' problems. Given that reality, the truck was of very limited usefulness to the Debtor, which the Court finds is the most likely motivation for its sale. The mere existence of the judgment against the Debtor – at least in the absence of any evidence to show he had knowledge of Barry's active effort to enforce it – is insufficient to change that conclusion.

There was no evidence that the amount which the Debtor received for the truck (\$1,250) was an inadequate consideration. Given that the truck was sold at a public auction, the Court therefore finds that the sale price itself was not out of line and does not raise any inference or suggestion of an intent to hinder, delay or defraud creditors.

After the auction sale, the Debtor had effectively converted a deficient 11 year old truck into an equivalent value of cash. What of his subsequent transfer of those funds to his wife? Although that is not raised in the *Complaint*, it was brought up by Plaintiffs at trial and alleged to provide evidence of an intent to hinder, delay and defraud. The Debtor did not object that this was beyond the scope of the pleadings, and in the absence of such objection, the Court must treat this as an issue tried by consent. *See Fed.R.Bankr.P. 7015*, incorporating *Fed.R.Civ.P. 15(b)(2)*.

The Court has considered this "second" transfer but finds that it does not advance the Plaintiffs' case. The Debtor and his wife, though separated at the time, retained many of the characteristics of an integrated family unit. The Debtor and his wife have four children together and the Debtor is a stepfather to wife's other child. Debtor testified at the §341 Meeting that it was his practice to voluntarily give his wife whatever money he earned for the support of her and the children and she would give him money back to live on. *See Amended Schedule J* filed at Document No. 24 following the §341 Meeting. The integral functioning of the Debtor and his wife and children during 2009, despite their physical separation, is further demonstrated by Debtor's testimony that he would occasionally stay at his wife's residence and relied on the use of her vehicle for transportation after the truck was sold. Indeed, it was his wife who followed the Debtor when he drove the truck to the auction house to be sold.

Under these circumstances, the Court views the payment of the sale proceeds to the Debtor's wife not as a transfer intended to delay, hinder or defraud creditors but rather as part of the Debtor's customary efforts to support his family with their ongoing

living expenses.⁷ A payment of \$1,250 to his wife, who was then maintaining a separate residence with five minor children, was certainly not extravagant or unreasonable. *See, e.g., In re Gugliada*, 20 B.R. 524 (Bankr. S.D. N.Y. 1982) (debtor's customary transfer of his paychecks to wife, with allowance back to him, for living expenses rebutted any prescription of actual fraud); *In re Birenbaum*, 2011 W.L. 1168167 (Bankr. N.D. Tex. 2011) (debtor's payments to wife during the 12 months preceding the bankruptcy filing were an allowance for his use and to pay expenses and did not support a *Section 727(c)(2)(A)* claim); *In re DiFabio*, 2004 W.L. 5250438 (Bankr. D. Conn. 2004) (where it was debtor's practice to turn over earnings to wife for household expenses, such conduct, without more, does not amount to evidence of a fraudulent intent to support a denial of discharge under *Section 727(c)(2)(a)*).

Section 727(a)(4)(A)

11 U.S.C. §727(a)(4)(A) “is designed to ensure that the debtor provides honest and reliable information to the trustee and others interested in the administration of the estate without their having to conduct costly investigations to discover the debtor’s true financial condition.” *In re Singh*, 433 B.R. 139, 154 (Bankr. E.D. Pa. 2010).

Under *Section 727(a)(4)(A)* a court shall not grant a discharge to a debtor if the debtor “knowingly and fraudulently, in or in connection with a case made a false oath or account.” *Id.* To deny a debtor a discharge under this provision the complaining party must prove by a preponderance of the evidence that (1) the debtor made a statement under oath; (2) the statement was false; (3) the debtor knew the statement was false; (4) the debtor made the statement with fraudulent intent; and (5) the statement related materially to the bankruptcy case. *Corona* at *7; *Cadle Co. v. Zofko*, 380 B.R. at 382. To support the denial of a discharge, the objecting party must prove an “actual intent on the part of the bankrupt to hinder, delay or defraud his creditors.” *In re Georges*, 138 Fed. Appx. at 472 *quoting In re Topper*, 229 F.2d 691, 692 (3d Cir. 1956). “The relevant fraudulent intent under § 727(a)(4)(A) can be established by a showing of the debtor’s ‘reckless indifference to the truth,’ which may include a pattern of nondisclosure.” *Zofko* at 382-83 (citations omitted).

For purposes of *Section 727(a)(4)(A)*, a debtor’s failure to list in the bankruptcy schedules and statement of financial affairs all assets owned can constitute a false oath or account since these statements are made under oath. *Zofko* at 384; *Singh* at 154. An honest mistake or oversight is not sufficient to deny a debtor his discharge. *Singh* at 154. Even a false statement resulting from ignorance or carelessness does not rise to the level of “knowing and fraudulent” sufficient to deny a discharge. *In re Oliver*, 414 B.R. 361, 374 (Bankr. E.D. Tenn. 2009).

Plaintiffs base their *Complaint* for a denial of discharge under *Section 727(a)(4)(A)* on

⁷ Under Pennsylvania law, a parent has an absolute duty to support one’s children and such obligation is not dependent on a person having custody of the children. *J.F. v. D.B.*, 941 A.2d 718 (Pa. Super. Ct. 2008). Likewise, spouses owe each other a duty of support, even if they are separated, unless the separation is “willful and malicious and without consent or encouragement.” *Morley v. Morley*, 424 A.2d 524, 526 (Pa. Super. Ct. 1981). The evidence in the present case showed that the separation between Debtor and his wife was consensual and, apparently, amicable. Thus, in making support payments to the wife for the benefit of her and the children, Debtor was fulfilling his legal, as well as moral, obligation.

alleged omissions found in the Debtor's Statement of Financial Affairs, his answers to questions at the *Section 341 Meeting*, and his deposition testimony. The Trustee itemizes a number of "false" statements by the Debtor in his post-trial brief:

(1) He answered "none" in response to Question 10 of the Statement of Financial Affairs which requires a Debtor to disclose all transfers of property made within the 2 years prior to the bankruptcy filing. This was a false statement.

(2) When asked, "Are there any errors or omissions that require the court's attention at this time?" the Defendant answered "No". (*Exhibit F* at p. 79). This was a false statement.

(3) When asked, "In the five years prior to your Bankruptcy filing, did you give away or transfer any of your property to anyone else?" the Defendant answered "No". (*Exhibit F* at p. 80). This was a false statement.

(4) When asked, "Well, previously I asked you if you transferred any of your property, and you said no. So now you're telling me, yes, you did?" The Attorney for the Debtor ... then interjected, "You didn't actually transfer it to anybody, did you?" The Defendant responded, "No, no." (*Exhibit F* at p. 85). This was a false statement.

(5) At the time of Mr. Ciotti's deposition, he stated that the truck could not be located by the Erie County Sheriff because he was "working with his truck." (*Exhibit G* at p. 103) but then stated that the truck "wasn't running" (*Exhibit F* at p. 84), but then states that he drove it to West Springfield to be sold at the auction. (*Exhibit G* at p. 104). One of the foregoing statements was a false statement. The truck was either running and he was using it for work or it didn't run.

(6) Mr. Ciotti also attempted to deny the obvious and continued to provide false oaths throughout his deposition. The following is an example:

Q. Mr. Ciotti you just testified that you had never seen what's been marked as Defendant's Exhibit 1 before.

A. No.

Q. Did you prepare for today's deposition with your attorney?

A. No.

Q. You didn't meet with him prior to coming down here today to conduct this deposition?

A. I came a little bit earlier but not about this.

Q. So you didn't discuss today's deposition with your attorney at all today?

A. No. No.

Q. So he wouldn't have shown you what he anticipated asking you questions about today?

A. No.

Trustee's Post-Trial Brief, Doc. No. 56, at 7-9.

Initially, the Court finds it improper to characterize Items 2 and 5, listed above, as false statements for purposes of the *Section 727(a)(4)(A)* analysis. Item 2 concerns an answer

given to a question at the §341 Meeting that was so broad and open-ended that it probably should have been objected to by Debtor's Counsel. If a similar blanket question was asked of the Debtor at trial, the Court would not hesitate to sustain an objection and direct the examiner to ask a more focused question. More to the point, however, it is inappropriate to make a finding that a false statement was made regarding a particular matter on the basis of such a general and vague predicate. The §341 Meeting was conducted over a period of time during which the Trustee and Barry asked the Debtor many questions touching on a variety of different subject matters. As explained below, in regards to the specific instances of the allegedly false statements raised by the Plaintiffs, they were made as a result of mistake or misunderstanding on the Debtor's part not because of an intent to deceive. Under these circumstances, the Court will not treat Debtor's answer during the §341 Meeting to such a general, nonspecific question as a false statement supporting a finding of nondischargeability in this case.

Item 5 in the list is in keeping with the Plaintiffs' attempt to make too much of the Debtor's testimony concerning the condition of the truck prior to its sale. For instance, at the §341 Meeting, when asked about the truck, the Debtor testified that: "It broke down ... It wasn't running. I got rid of it." *Ex. F.* at 9. The Trustee points out that, by his own admission, the Debtor drove the truck to the auction. The Trustee contends that for the Debtor to then testify that it was not running amounts to a false statement. The Court views all of the allegedly false testimony related to the condition of the truck as a matter of semantics.

As indicated previously, the Debtor gave uncontradicted testimony that the truck could only be driven for about ten minutes before it had to be stopped so that water could be added to the radiator. That is certainly not a level of operation that would be acceptable to the average driver, so the Court can readily see how the Debtor may have answered the way he did without being motivated by any fraudulent intent. Thus, the Court does not view testimony that the truck "wasn't running" as false.

As to the remaining items in the list, the Court does not disagree with the Plaintiffs contention that the Debtor did make false statements and that those statements were made under oath. The Court does find, however, that the Debtor's statements were not made with any fraudulent intent, or even reckless indifference to the truth, but rather were the product of a mistake or misunderstanding by the Debtor. The Court finds credible the Debtor's testimony that he thought "transfer" meant the disposition of property for which reasonable value was not received, and, his testimony that he thought "property" meant "real property."

Items 1, 3 and 4 on the list all relate to the "transfer" of property and may be considered together. A review of the Debtor's testimony at the §341 Meeting is instructive on the point at issue. When first asked whether he had given away or transferred "any of your property to anyone else" in the five years prior to the bankruptcy filing, he answered "no," consistent with his answers to "Question 10" on the Statement of Financial Affairs. *See Ex. F.* at 5. However, when directly asked what had happened to his truck, he truthfully answered that he had sold it at an auction about three or six months earlier. *Id.* at 10. A few moments later, in responding to a question about how he cashed his paycheck from work, the Debtor spontaneously volunteered: "When you said property, I thought it was real estate." *Id.* at 11. This suggests an honest explanation for a previous answer rather

than a calculated deception. *See, e.g., In re McGowan*, 18 B.R. 981 (Bankr. E.D. N.Y. 1982) (debtor's response of "no" to question at §341 Meeting as to whether he owned stocks, bonds or U.S. savings bonds in the preceding 3 years did not preclude discharge even though the debtor was the sole owner of a corporation where the debtor admitted ownership of the corporation in response to the very next question; in answering "no" the debtor did not intend to conceal his interest in the corporation); *In re Berry*, 1 B.R. 127 (Bankr. E.D. Tenn. 16 1979) (court would consider later disclosure at a meeting of creditors as evidence of a lack of fraudulent intent).

The Debtor continued to maintain that same position at trial. Having had the opportunity to observe the Debtor at trial, the Court found him to be somewhat unsophisticated as to financial matters. As the overarching reason for the Debtor to file his bankruptcy was to save his house, the Court finds it plausible that he understood property as being limited to real property.

Plaintiffs also point to the Debtor's testimony that he transferred the proceeds from the sale of the truck to his wife as support for his children. Plaintiffs assert that the Debtor should have listed this transfer as a "gift" in the Statement of Financial Affairs. The Court does not view payment of support as synonymous with the tendering of a "gift." It was noted previously that the Debtor was under a legal obligation to provide support for his wife and children. *See n. 7, supra*. Furthermore, the Debtor's testimony established that this payment was in keeping with his usual practice of transferring his earnings to his wife for the living expenses of her and the children. The Court finds it understandable that the Debtor would not have considered the support payment "a gift" and would thus not have had a reason to report it as such on the Statement of Financial Affairs. *See Oliver*, 414 B.R. at 375-76.

Item 4 on the Trustee's list of allegedly false statements requiring a finding of nondischargeability deserves an additional comment because it is somewhat taken out of context. The Court has carefully reviewed the transcript from the §341 Meeting and it is unclear whether in answering "no, no," the Debtor was responding to the interjected question from his own attorney (as Plaintiffs contend), or to the immediate preceding question from the Trustee. Furthermore, and in any event, the very next question and answer at the §341 Meeting consisted of the following:

Q. Where's the truck?

A. That, I don't really know. I sold it at an auction.

That was a true statement and the Court finds that it dispels any doubt as to whether the previous answer was intentionally or recklessly false.

Finally, Item 6 on the list concerns false statements the Debtor made when questioned at his deposition about whether he had met with his attorney earlier in the day to review exhibits and his deposition testimony. Upon questioning by his attorney later in the deposition he promptly admitted that they had in fact met prior to the deposition commencement. The Court finds credible the Debtor's explanation of his mistaken belief at the time, i.e., that since communications between the Debtor and his attorney are generally considered confidential, he truly believed he was not supposed to reveal the pre-deposition review of testimony. Additionally, the deposition questions and answers which the Trustee has pointed

to do not appear to meet the standard of materiality required to deny a discharge pursuant to *Section 727(a)(4)(A)* since they do not relate to the Debtor's business transactions or estate and do not concern the discovery of business dealings, assets or the existence and disposition of Debtor's property. *Zofko* at 383.

CONCLUSION

The Debtor made honest mistakes in his schedules and in his statements at the meeting of creditors and during the course of this Adversary Proceeding. The mistakes were promptly corrected and the truth made clear. The Court finds the Debtor's explanations for the "misstatements" to be credible especially in light of his level of sophistication and understanding of the questions presented to him. After witnessing his demeanor and candor during his testimony, it is clear to the Court that no fraudulent intent existed in the Debtor by his "misstatements" and that the Debtor did not exhibit a reckless indifference to the truth when making these statements. The Plaintiffs have failed to meet their burden of proving the elements necessary for denial of the Debtor's discharge under either *Section 727(a)(2)(A)* or *Section 727(a)(4)(A)* by a preponderance of the evidence. Therefore, the *Complaint* will be dismissed by separate Order.

ORDER

AND NOW, this ***18th*** day of ***April, 2011***, based upon the findings or fact and conclusions of law issued pursuant to *Fed.R.Bankr.P. 7052* as set forth in the *Memorandum Opinion* filed this date, it is hereby ***ORDERED, ADJUDGED and DECREED*** that the ***Amended Complaint to Determine the Dischargeability of a Debt***, filed by Plaintiffs John C. Melarango, Trustee and Boubacar Barry at Document No. 15, is ***DISMISSED***, with prejudice.

/s/ **Thomas P. Agresti, Chief Judge**
United States Bankruptcy Court

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CHANGE OF NAME NOTICE
IN THE COURT OF COMMON
PLEAS OF ERIE COUNTY,
PENNSYLVANIA
IN THE MATTER OF THE
CHANGE OF NAME OF AUSTIN
ANDREW WILLIAM MORROW
NOTICE

Notice is hereby given that on April 21, 2011, the Petition of Austin Andrew William Morrow was presented to the Court of Common Pleas of Erie County, Pennsylvania requesting that his name be changed to Austin Andrew William Gadley. The Court has set the 23rd day of May, 2011 at 3:15 o'clock p.m., Court Room G, Erie County Court House as the time and date for the hearing on said Petition. All interested parties may attend said hearing. McCarthy, Martone & Peasley Joseph P. Martone, Esquire
150 West Fifth Street
Erie, Pennsylvania 16507
(814) 452-3657
Attorney for Petitioner

May 6

INCORPORATION NOTICE

Back to Erie, Inc. has been incorporated under the provisions of the Nonprofit Corporation Law of 1988, as amended. Richard E. Filippi, Esquire
504 State Street, Suite 200
Erie, PA 16501

May 6

INCORPORATION NOTICE

DRILL SHOT INC. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988. Williams & Adair
332 East Sixth Street
Erie, PA 16507

May 6

INCORPORATION NOTICE

NOTICE is hereby given that SARA'S ICE CREAM PUB, INC. has been incorporated under the provisions of the Business

Corporation Law of 1988. Thomas E. Kuhn, Esquire
Marsh, Spaeder, Baur, Spaeder
& Schaaf, LLP
300 State Street, Suite 300
Erie, PA 16507

May 6

LEGAL NOTICE

ATTENTION: UNKNOWN
FATHER

INVOLUNTARY TERMINATION
OF PARENTAL RIGHTS

IN THE MATTER OF THE
ADOPTION OF MINOR
FEMALE CHILD (A.O.B.)

DOB: 02-04-2010

BORN TO: ALICE LEE BROWN
#4A IN ADOPTION, 2011

If you could be the parent of the above mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Cunningham, Court Room C, City of Erie on May 23, 2011 at 9:15 a.m. and then there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

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

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or

cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.
Family/Orphan's
Court Administrator
Room 204 - 205
Erie County Court House
Erie, Pennsylvania 16501
(814) 451-6251

May 6

SHERIFF SALES

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

**May 20, 2011
at 10:00 AM**

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

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

Bob Merski

Sheriff of Erie County

Apr. 29 and May 6, 13

SALE NO. 2

Ex. #15360 of 2010

Marquette Savings Bank

v.

Robert Byrne, Jr.

SHERIFF'S SALE

By virtue of a Writ of Execution filed at No. 15360 - 2010, Marquette Savings Bank vs. Robert Byrne, Jr., owner of property situate in the City of Erie, Erie County, Pennsylvania being: 1328 West 40th Street, Erie, Pennsylvania.

70 x 98.02 irr.

Assessment Map Number:
(19) 6133-114

Assessed Value Figure: \$64,840.00
Improvement Thereon: Residence
Donald F. Fessler, Jr., Esq.

Marsh Spaeder Baur Spaeder

& Schaaf, LLP
Suite 300, 300 State Street
Erie, Pennsylvania 16507
(814) 456-5301

Apr. 29 and May 6, 13

SALE NO. 4

Ex. #15757 of 2010

NORTHWEST SAVINGS

BANK, Plaintiff,

v.

ANDRE P. OVERTON,

Defendant

SHERIFF'S SALE

By virtue of a Writ of Execution filed at No. 2010-15757, Northwest Savings Bank vs. Andre P. Overton, owner of property situate in the City of Erie, Erie County, Pennsylvania being: 2916 Walnut Street, Erie, Pennsylvania.

40' x 120' x 40' x 120'

Assessment Map Number:
(19) 6046-303

Assessed Value Figure: \$65,300.00

Improvement Thereon: Residence

Kurt L. Sundberg, Esq.

Marsh Spaeder Baur Spaeder

& Schaaf, LLP

Suite 300, 300 State Street

Erie, Pennsylvania 16507

(814) 456-5301

Apr. 29 and May 6, 13

SALE NO. 5

Ex. #15179 of 2010

Arch Bay Holdings, LLC - Series

2010A, Plaintiff

v.

John F. Burnett and

Barbara A. Burnett, Defendants

REAL PROPERTY SHORT

DESCRIPTION FORM

TO THE SHERIFF OF ERIE COUNTY:

PROPERTY OF: John F. Burnett and Barbara A. Burnett

EXECUTION NO: 15179-10

JUDGMENT AMT: \$113,621.62

ALL the right, title, interest and claim of: John F. Burnett and Barbara A. Burnett

ADDRESS: 3408 Allegheny Road, Erie, PA 16508

MUNICIPALITY: City of Erie

ALL THAT CERTAIN piece of land situate in the City of Erie, County of Erie and Commonwealth of Pennsylvania, known as and being

the northerly forty-nine (49) feet of Lot No. 650 in the Southlands Subdivision, Second Section, being a part of Reserve Tract No. 73 in the City of Erie, Pennsylvania made by the Andrews Land Company, as per map recorded in Erie County Map Book No. 3, pages 82 and 83, and having erected thereon a frame dwelling house known as 3408 Allegheny Road, Erie, Pennsylvania, and bearing County of Erie Index No. (19) 6151-110.

Tax Parcel ID No.: 19-6151-110

Parker McCay, P.A.

Christine A. Pinto, Esquire

Attorney ID# 205622

7001 Lincoln Drive, P.O. Box 974

Marlton, NY 08053

(856) 810-5815

Apr. 29 and May 6, 13

SALE NO. 6

Ex. #15406 of 2010

US BANK, N.A. AS TRUSTEE

FOR THE SASCO 2002-12

TRUST, Plaintiff

v.

TICA BEASON, Defendant(s)

SHERIFF'S SALE

By virtue of a Writ of Execution filed at No. 15406-10

US BANK, N.A., AS TRUSTEE FOR THE SASCO 2002-12 TRUST vs. TICA BEASON

Amount Due: \$17,904.94

TICA BEASON, owner(s) of property situated in the CITY OF ERIE, Erie County, Pennsylvania

being 714 ASH STREET, ERIE, PA 16503-1324

Dimensions: 33 x 120

Acreage: 0.0909

Assessment Map number:

14-010-016-0104.00

Assessed Value: \$21,400.00

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

Apr. 29 and May 6, 13

SALE NO. 7

Ex. #15292 of 2010

GMAC MORTGAGE, LLC,

Plaintiff

**v.
ALBERT BRACKLEY,
Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 15292-10
GMAC MORTGAGE, LLC vs. ALBERT BRACKLEY
Amount Due: \$60,543.83
ALBERT BRACKLEY, owner(s) of property situated in the City of Erie, Erie County, Pennsylvania being 2121 RASPBERRY STREET, ERIE, PA 16502-2442
Dimensions: 35 x 130
Acreage: 0.1045
Assessment Map number: 19060030012400
Assessed Value: \$47,340.00
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
Apr. 29 and May 6, 13

SALE NO. 8

Ex. #15112 of 2009
**WELLS FARGO BANK, N.A.,
AS TRUSTEE FOR BNC
MORTGAGE LOAN TRUST
2007-4, MORTGAGE PASS-
THROUGH CERTIFICATES,
SERIES 2007-4, Plaintiff**
**v.
ADAM COOVER, Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 15112-09
WELLS FARGO BANK, N.A., AS TRUSTEE FOR BNC MORTGAGE LOAN TRUST 2007-4, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-4 vs. ADAM COOVER
Amount Due: \$248,696.07
ADAM COOVER, owner(s) of property situated in TOWNSHIP OF HARBORCREEK, Erie County, Pennsylvania being 3709 HARBOR RIDGE TRAIL, ERIE, PA 16510-5955
Dimensions: 71.47 X 142.93
Acreage: 0.2297
Assessment Map number: 27081211203700
Assessed Value: \$233,800.00

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

Apr. 29 and May 6, 13

SALE NO. 9

Ex. #14922 of 2009
**PHH MORTGAGE
CORPORATION, Plaintiff**
**v.
JAMES G. GILLESPIE
LORI M. ADAMS, Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 14922-09
PHH MORTGAGE CORPORATION vs. JAMES G. GILLESPIE and LORI M. ADAMS
Amount Due: \$147,537.80
JAMES G. GILLESPIE and LORI M. ADAMS, owner(s) of property situated in TOWNSHIP OF MILLCREEK, Erie County, Pennsylvania being 1215 CHELSEA AVENUE, ERIE, PA 16505-3311
Dimensions: 100X125
Acreage: .2870
Assessment Map number: 33-027-162.0-034.00
Assessed Value: 99,440
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

Apr. 29 and May 6, 13

SALE NO. 10

Ex. #13646 of 2010
**WELLS FARGO FINANCIAL
PENNSYLVANIA, INC., Plaintiff**
**v.
STEFANIA SIDOROWICZ, IN
HER CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
LECH CEBELINSKI, IN HIS
CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
KLEMENS CEBELINSKI, IN
HIS CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
ANDRZES CEBELINSKI, IN**

**HIS CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
KONSTANTY CEBELINSKI, IN
HIS CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
MIREK CEBELINSKI, IN
HIS CAPACITY AS HEIR OF
CELINA B. LONG, DECEASED
UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND
ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING
RIGHT, TITLE OR INTEREST
FROM OR UNDER CELINA
B. LONG, DECEASED,
Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 13646-10
WELLS FARGO FINANCIAL PENNSYLVANIA, INC. VS. STEFANIA SIDOROWICZ, IN HER CAPACITY AS HEIR OF CELINA B. LONG, DECEASED LECH CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED KLEMENS CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED ANDRZES CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED KONSTANTY CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED MIREK CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER CELINA B. LONG, DECEASED
Amount Due: \$99,762.03
STEFANIA SIDOROWICZ, IN HER CAPACITY AS HEIR OF CELINA B. LONG, DECEASED LECH CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED KLEMENS CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED ANDRZES CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED KONSTANTY CEBELINSKI, IN HIS CAPACITY

AS HEIR OF CELINA B. LONG, DECEASED MIREK CEBELINSKI, IN HIS CAPACITY AS HEIR OF CELINA B. LONG, DECEASED UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER CELINA B. LONG, DECEASED owner(s) of property situated in CITY OF ERIE, Erie County, Pennsylvania being 3413 WASHINGTON AVENUE, ERIE, PA 16508-2331
Dimensions: 50 X 125
Acreage: 0.1435
Assessment Map number: 19-061-063.0-124.00
Assessed Value: \$69,790.00
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

Apr. 29 and May 6, 13

SALE NO. 11

Ex. #11960 of 2010
NATIONSTAR MORTGAGE LLC, Plaintiff

v.

MICHELLE L. PEACOCK, Defendant(s)
SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 11960-10
NATIONSTAR MORTGAGE LLC vs. MICHELLE L. PEACOCK
Amount Due: \$92,806.08
MICHELLE L. PEACOCK, owner(s) of property situated in Erie County, Pennsylvania being 1631 CHERRY STREET, LAKE CITY, PA 16423-1212
Assessment Map number: 28009012001000
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

Apr. 29 and May 6, 13

SALE NO. 12

Ex. #12887 of 2010

CITIZENS BANK OF PENNSYLVANIA, Plaintiff,

v.

THOMAS E. CAREY, Defendant
SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 12887-10 Citizens Bank of Pennsylvania, Plaintiff vs. Thomas E. Carey, Defendant

Thomas E. Carey, owner(s) of property situated in Erie, Erie County, Pennsylvania being 2411 Clark Road, Erie, PA 16510:

All that certain piece or parcel of land situate in the Township of Harborcreek, County of Erie, State of Pennsylvania, being part of the Irvine's Reserve Tract, bounded and described as follows, to wit: BEGINNING at a point in the centerline of Clark Road, which said point is South 26° 56' East 799.24 feet from the northwest corner of Purpart No. 6 of the original Charles Thompson Farm and subsequently of the Rose Kinsinger Farm, which point of beginning is also measured from an iron pin in the center of Clark Road located South 26° 56' East, 9.24 feet from a crosscut on concrete parapet wall;

THENCE, North 53° 22' East and along the southerly line of the premises conveyed by William Kinsinger and wife to G.W. Ambrose and wife by deed recorded in Deed Book 759, Page 389, crossing over an iron pipe in the east line of Clark Road, 558.87 feet, more or less, to an iron pipe to the westerly line of lands formerly of W. and J. Althof; THENCE, South 36° 51.5' East, 157.37 feet to an iron pipe; THENCE South 53° 22' West 586.39 feet to a point in the center of Clark Road; THENCE North 26° 56' West 159.65 feet to the place of beginning.

Assessment Map Number: 27043204008700

Assessed Value figure: \$149,100.00
Improvement thereon: Residential Property

Lauren Berschler Karl, Esquire
355 Fifth Avenue, Suite 400
Pittsburgh, PA 15222
412-232-0808

Apr. 29 and May 6, 13

SALE NO. 13

Ex. #14161 of 2010

CITIZENS BANK OF PENNSYLVANIA, Plaintiff,

v.

KIMBERLY MCCLELLAND AND SCOTT MCCLELLAND, Defendants
SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 14161-10

Citizens Bank of Pennsylvania, Plaintiff vs. Kimberly McClelland and Scott McClelland, Defendants
Kimberly McClelland and Scott McClelland, owner(s) of property situated in Erie, Erie County, Pennsylvania being 76 Orchard Street, Erie, PA 16508:

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: BEGINNING at the southeast corner of the piece at the northwest corner of Norman Way and Orchard Street; THENCE Westwardly along the north line of Norman Way, twenty-eight and five tenths (28.5) feet to the east line of Lot No. 40 of Eliot Subdivision; THENCE northwardly along the east line of Lot No. 40, One Hundred Fifty-three and one-half (153 1/2) feet to a point; THENCE Eastwardly One Hundred-Six (106) feet more or less to a point in the west line of Orchard Street; THENCE Southwardly along the west line of Orchard Street; One Hundred Seventy-five and nine tenths (175.9) feet more or less to the place of beginning.

Assessment Map Number: 18053030030100

Assessed Value figure: \$67,890.00
Improvement thereon: Residential Property

Lauren Berschler Karl, Esquire
355 Fifth Avenue, Suite 400
Pittsburgh, PA 15222
412-232-0808

Apr. 29 and May 6, 13

SALE NO. 16

Ex. #15652 of 2010

U.S. BANK NATIONAL ASSOCIATION TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY,

Plaintiff

v.

**JOSHUA M. OHL, Defendants
SHERIFF'S SALE**

By virtue of a Writ of Execution No. 15652-10 U.S. BANK NATIONAL ASSOCIATION TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. JOSHUA M. OHL, Defendants
Real Estate: 236 FAIRVIEW STREET, CORRY, PA
Municipality: City of Corry, 4th Ward, Erie County, Pennsylvania
See Deed Book 1459, Page 751
Tax I.D. (8) 37-145-1
Assessment: \$ 4,700. (Land)
\$40,720. (Bldg)

Improvement thereon: a residential dwelling house as identified above
Leon P. Haller, Esquire
Purcell, Krug & Haller
1719 North Front Street
Harrisburg, PA 17104
(717) 234-4178

Apr. 29 and May 6, 13

SALE NO. 17

Ex. #11594 of 2009

**U.S. BANK NATIONAL
ASSOCIATION TRUSTEE
FOR THE PENNSYLVANIA
HOUSING FINANCE AGENCY,
Plaintiff**

v.

**LISA M. SWIFT, Defendants
SHERIFF'S SALE**

By virtue of a Writ of Execution No. 11594-09 U.S. BANK NATIONAL ASSOCIATION TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. LISA M. SWIFT, Defendants
Real Estate: 501 POWELL AVENUE, ERIE, PA
Municipality: Township of Millcreek, Erie County, Pennsylvania
Dimensions: 60 x 120
See Deed Book 1023, Page 1279
Tax I.D. (33) 5-11-20
Assessment: \$17,200. (Land)
\$46,440. (Bldg)

Improvement thereon: a residential dwelling house as identified above
Leon P. Haller, Esquire
Purcell, Krug & Haller
1719 North Front Street
Harrisburg, PA 17104
(717) 234-4178

Apr. 29 and May 6, 13

SALE NO. 18

Ex. #10059 of 2011

**Select Portfolio Servicing, Inc.,
Plaintiff**

v.

**Michael Keys
Darlene Milsap-Keys,
Defendant(s)**

SHERIFF'S SALE

ALL that certain piece or parcel of land situate in the City of Erie, County of Erie, and the State of Pennsylvania, being more particularly bounded and described as follows, to wit: BEING Lot Number Ten (10) of the replot of part of Block "F" of the William Spencer Farm Subdivision, as recorded in Erie County Map Book 6 at Page 14, together with the north ten (10) feet of lot number two (2) and also the north ten (10) feet of the east thirty-three (33) feet of lot number (3) of the replot of part of Erie County Map Book 4 at page 437, together with a piece of land one (1) foot by fifteen and eighty-seven hundredths (15.87) feet taken from the southeast corner of lot number nine (9) and more particularly described as follows: BEGINNING at a point in the southeast corner of said lot number nine (9); THENCE westwardly along the south line of said lot number nine (9), one (1) foot to a point; THENCE northwardly and parallel with the west line of said lot number nine (9) fifteen and eighty-seven hundredths (15.87) feet to a point; THENCE eastwardly and parallel with the south line of said lot number nine (9), one (1) foot to a point in the corner of said lot; THENCE southwardly along the east line of said lot, fifteen and eighty-seven hundredths (15.87) feet to the place of beginning. HAVING erected thereon a one story stone and frame dwelling and being commonly known as 3612 Reed Street, Erie, Pennsylvania and bearing Erie County Tax Index No.: (18) 5375-202.

"AS DESCRIBED IN MORTGAGE BOOK 914 PAGE 279"
BEING KNOWN AS: 3612 Reed Street, Erie, PA 16504
PROPERTY ID NO.: (18) 5375-202

TITLE TO SAID PREMISES IS VESTED IN Darlene Milsap Keys and Michael Keys, wife and husband, as tenants with the right of survivorship by Deed from George J. Dowd and Shirleen G. Dowd, husband and wife dated 08/23/2002 recorded 08/26/2002 in Deed Book 914 Page 275.

Jerome B. Blank, Esquire
PA ID NO 49736
Attorney for the Plaintiff
Udren Law Offices, P.C.
Woodcrest Corporation Center
111 Woodcrest Road, Suite 200
Cherry Hill, NJ 08003-3620
856-669-5400

Apr. 29 and May 6, 13

SALE NO. 22

Ex. #12821 of 2006

**WELLS FARGO BANK, NA, AS
TRUSTEE FOR MORGAN
STANLEY CAPITAL I
INC. TRUST 2004-OP1
MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES
2004-OP1, Plaintiff**

v.

**THERESA ANDERSON
LAWRENCE L. ANDERSON
MICHAEL T. TARKOWSKI,**

**Defendant(s)
DESCRIPTION**

All that certain piece or parcel of land situate in the Township of Millcreek, County of Erie and State of Pennsylvania, bounded and described as follows, to-wit: Beginning at the point of intersection of the south line of West Gore Road and the east line of Dorchester Drive; thence south 24 degrees, 35 minutes east, along the east line of Dorchester Drive, 130.76 feet to an iron pin; thence north 64 degrees, 25 minutes east along the residue of the David B. Wiley property, 100.00 foot to an iron pipe in the west line of the Russell Huffman property; thence north 24 degrees, 35 minutes west, along the west line of Huffman property, 130.76 feet to a point in the south line of West Gore Road; thence south 64 degrees, 25 minutes west, along the south line of West Gore Road, 100.00 feet to the place of beginning. Being the

northerly 130.76 feet to the Lot No. 17 of the Grand View Gardens as recorded in Erie County Map Book 2, Page 460. Said premises being more commonly know as 943-945 West Gore Road, Erie, PA and bearing Erie County Index Number (33) 119-519.0-001-01.

PROPERTY ADDRESS: 943-945 W. Gore Road, Erie, PA 16509
Goldbeck McCafferty & McKeever
Attorney for Plaintiff
Suite 5000 - Mellon Independence
Center, 701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

Apr. 29 and May 6, 13

SALE NO. 23

Ex. #14946 of 2009

**Bank of America, N.A.,
v.**

**Randell B. Coleman
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 2009-14946 Bank of America, N.A. vs. Randell B. Coleman, owners of property situated in City of Erie, Erie County, Pennsylvania being 1820 Fairmont Parkway, Erie, PA 16510

Assessment Map number:
18-051-024.0-221.00

Assessed Value figure: \$12,300.00

Assessment Map number:
18-051-024.0-222.00

Assessed Value figure: \$46,940.00

Assessment Map number:
18-051-024.0-223.00

Assessed Value figure: \$12,300.00

Improvement thereon: Residential
Dwelling

Patrick J. Wesner, Esquire
220 Lake Drive East, Suite 301
Cherry Hill, NJ 08002
(856) 482-1400

Apr. 29 and May 6, 13

SALE NO. 24

Ex. #12163 of 2010

**U.S. BANK NATIONAL
ASSOCIATION, AS TRUSTEE,
ON BEHALF OF SASCO
2007-TC1**

v.

**Mark W. Sult, Deborah A. Sult
and THE UNITED STATES OF
AMERICA c/o the U.S. Attorney
for the Western District of**

**Pennsylvania
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 12163-10 U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, ON BEHALF OF SASCO 2007-TC1 vs. Mark W. Sult, Deborah A. Sult, and THE UNITED STATES OF AMERICA c/o the U.S. Attorney for the Western District of Pennsylvania, owners of property situated in Township of Millcreek, Erie County, Pennsylvania being 3611 Cameo Way, Erie, PA 16506

Assessment Map number:
33-79-324-2

Assessed Value figure: \$104,620.00

Improvement thereon: Residential
Dwelling

Patrick J. Wesner, Esquire
220 Lake Drive East, Suite 301
Cherry Hill, NJ 08002
(856) 482-1400

Apr. 29 and May 6, 13

SALE NO. 25

Ex. #15609 of 2010

**Wells Fargo Bank, N.A.
v.**

**Clarence N. Still
SHERIFF'S SALE**

By virtue of a Writ of Execution file to No. 15609-10 Wells Fargo Bank, N.A. vs. Clarence N. Still, owner(s) of property situated in the City of Corry, County of Erie, Pennsylvania being 528 West Church Street, Corry, PA 16407

0.2 acre

Assessment Map Number:
(8) 34-136-8

Assessed Value figure: \$40,420.00

Improvement thereon: Single
Family Dwelling

Scott A. Dietterick, Esquire
Kimberly A. Bonner, Esquire
Joel Ackerman, Esquire
Ashleigh L. Levy, Esquire
Zucker, Goldberg & Ackerman, LLC
200 Sheffield Street, Suite 101
Mountainside, NJ 07092
(908) 233-8500

Apr. 29 and May 6, 13

SALE NO. 26

Ex. #15688 of 2010

**Chase Home Finance LLC,
successor by merger to**

**Chase Manhattan Mortgage
Corporation, Plaintiff**

v.

**Brian Burrow and Eli Arnold,
Defendant**

SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 15688-10 Chase Home Finance LLC, successor by merger to Chase Manhattan Mortgage Corporation v. Brian Burrow and Eli Arnold, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 1318 Hilltop Road, Erie, Pennsylvania 16509.

Tax I.D. No. 33-100-441-2

Assessment: \$ 1,778.70

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

Apr. 29 and May 6, 13

SALE NO. 28

Ex. #10014 of 2010

**Deutsche Bank National Trust
Company, as Trustee for
NovaStar Mortgage Funding
Trust, Series 2007-1, Plaintiff**

v.

**Daniel Ratiu, Defendant
SHORT DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10014-10 Deutsche Bank National Trust Company, as Trustee for NovaStar Mortgage Funding Trust, Series 2007-1 v. Daniel Ratiu, owners of property situated in the Township of Second Ward of the City of Erie, Erie County, Pennsylvania being 409 East 11th Street, Erie, Pennsylvania 16503.

Tax I.D. No. 15-20-22-118

Assessment: \$83,923.74

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

Apr. 29 and May 6, 13

SALE NO. 29

Ex. #15682 of 2010

**Chase Home Finance LLC,
Plaintiff**

v.

**John C. Thorrr and
Karla K. Thorrr, Defendant**

SHORT DESCRIPTION

By virtue of a Writ of Execution filed to No. 15682-10 Chase Home Finance LLC v. John C. Thorr and Karla K. Thorr, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 6137 Meridian Drive, Erie, Pennsylvania 16509.

Tax I.D. No. 33-188-590-9

Assessment: \$ 59,520.14

Improvements: Residential Dwelling

McCabe, Weisberg and Conway, P.C.

123 South Broad Street, Suite 2080

Philadelphia, PA 19109

Apr. 29 and May 6, 13

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Freedman**
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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

BERLIN, KENNETH L.,

deceased

Late of the Township of Millcreek, Erie County, Pennsylvania
Executor: Thomas J. Berlin, 1833 Left Millstone Road, Weston, WV 26452-8062
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

BOLAM, FRANCES L.,

deceased

Late of the City of Erie, County of Erie
Executor: David G. Bolam, 7089 Garfield Avenue, Harborcreek, Pennsylvania 16421
Attorney: W. Richard Cowell, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

CARUSO, CLYTHIA C.,

deceased

Late of the City of Corry
Co-Executors: Deborah Lee Baran and Rosario J. Caruso, III
Attorney: Joseph M. Walsh, III, Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 305 West 6th Street, Erie, PA 16507

COLE, KATHERINE T.,

deceased

Late of the City of Erie
Executrix: Diana L. Rollins, 3013 Florida Ave., Erie, PA 16504
Attorney: None

CONSIDINE, ROSEMARY,

a/k/a ROSEY CONSIDINE,

deceased

Late of Erie, PA, Erie County, PA
Executor: Rupert Stadmiller, c/o Gregory A. Karle, Esquire, 900 State Street, Suite 103, Erie, PA 16501
Attorney: Gregory A. Karle, Esquire, 900 State Street, Suite 103, Erie, PA 16501

FEAGLEY, DOROTHY L.,

deceased

Late of the Township of Harborcreek, County of Erie and Commonwealth of Pennsylvania
Co-Executors: Susan M. Watson and Carolyn J. Brandt, 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

FLOROS, DONNA E.,

deceased

Late of the Township of Millcreek, Erie County, Pennsylvania
Executor: James J. Floros, 558 West Sixth Street, Erie, Pennsylvania 16507
Attorney: Raymond A. Pagliari, Esq., 558 West Sixth Street, Erie, Pennsylvania 16507

GOLDEN, ELSA, a/k/a

ELSA E. GOLDEN,

deceased

Late of the Township of Fairview, County of Erie, Pennsylvania
Executrix: Shirley J. Nelligan, c/o 246 West 10th Street, Erie, PA 16501
Attorney: Scott E. Miller, Esquire, 246 West Tenth Street, Erie, PA 16501

HEMME, ELIZABETH T., a/k/a

ELIZABETH THEKLA HEMME,

a/k/a ELIZABETH HEMME,

deceased

Late of the City of Erie
Executor: Joseph Hemme
Attorney: Norman "Bud" Stark, Esquire, The Stark Law Firm, 100 State Street, Suite 210, Erie, PA 16507

HLAVENKA, JOHN W.,

deceased

Late of Harborcreek Township, Erie County, Commonwealth of Pennsylvania
Executrix: Agnes Jean Duska, 827 E. 28th Street, 1st Floor, Erie, PA 16504
Attorney: None

REYNOLDS, JOANNE L.,

deceased

Late of North East Borough, Erie County, North East, Pennsylvania
Executrix: Gretchen Welsh, c/o Robert J. Jeffery, Esq., 22 East Main Street, North East, Pennsylvania 16428
Attorney: Orton & Jeffery, P.C., 33 West Main Street, North East, Pennsylvania 16428

SHALLENBARGER, EDITH,

deceased

Late of the City of Erie, Erie County, Pennsylvania
Administratrix: Mary P. Shallenbarger, 558 West Sixth Street, Erie, Pennsylvania 16507-1129
Attorney: Raymond A. Pagliari, Esq., 558 West Sixth Street, Erie, Pennsylvania 16507-1129

VEREB, JOSEPHINE J.,

deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Michael P. Vereb
Attorney: Joseph T. Messina, Esquire, Elderkin, Martin, Kelly & Messina, 150 East 8th Street, Erie, PA 16501

WILT, JAMIE J., a/k/a

JAMIE JOHN WILT,

deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Administratrix: Rashell L. Ulrich
Attorney: Craig A. Markham, Esquire, Elderkin, Martin, Kelly & Messina, 150 West 8th Street, Erie, PA 16501

SECOND PUBLICATION

**BEHAN, BARBARA ANN,
deceased**

Late of the City of Erie, County of Erie, Pennsylvania
Co-Executors: William J. Behan, John M. Behan, Patrick R. Behan, c/o 150 West Fifth St., Erie, PA 16507
Attorney: Colleen C. McCarthy, Esq., McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, PA 16507

**CASAL, PETER,
deceased**

Late of North East Boro, Erie County, Pennsylvania
Administrator: Lillian Casal, 101 Wall Street 9, North East, PA 16428
Attorney: Virginia Shenkan, Esq., Virginia Shenkan Law Center, P.C., P.O. Box 1130, New Castle, Pennsylvania 16103

**DITRICH, SOPHIE D.,
deceased**

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

**KERCHANSKY, STEPHEN D.,
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Co-Executors: Karen M. Clark and Daniel C. Kerchansky, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**LUBAK, LUCILLE A.,
deceased**

Late of the City of Erie, Erie County, Pennsylvania
Executrix: Gail A. Casillo, 558 West Sixth Street, Erie, Pennsylvania 16507
Attorney: Raymond A. Pagliari, Esq., 558 West Sixth Street, Erie, Pennsylvania 16507

**WHITESEL, LOUANN M.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Fred A. Whitesel, 5401 Old Sterrettania Road, Erie, PA 16506
Attorney: None

THIRD PUBLICATION

**ALLEN, JANE ELIZABETH,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executor: James M. Allen, 1041 Villa Sites Rd., Harborcreek, PA 16421
Attorney: None

**BROOKS, THOMAS R.,
deceased**

Late of the Township of Millcreek, Erie County, Pennsylvania
Executrix: Colleen Jones, 4222 Conrad Road, Erie, PA 16510
Attorney: Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**BRUNNER, INGRID A.,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of PA
Executor: Bjoern Erik Brunner, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorneys: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**BUSHEY, HOLLY, a/k/a
HOLLY JOANN BUSHEY,
deceased**

Late of the City of Erie
Co-Administrators: Alfred Bushey and Mario Smith, c/o Denise M. Cuneo, Esq., Nicholas, Perot Smith, Koehler, & Wall, PC, 2527 West 26th Street, Erie, PA 16506
Attorney: Denise M. Cuneo, Esq., 2527 West 26th Street, Erie, PA 16506

**COOK, MARGARET
deceased**

Late of the City of Erie, County of Erie
Executrix: Deborah J. Jordano
Attorney: Michael G. Nelson, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, Pennsylvania 16507

**DEAN, PATRICIA A.,
deceased**

Late of Lawrence Park Township
Executor: Charles A. Dean, c/o Attorney Terrence P. Cavanaugh, 3336 Buffalo Road, Wesleyville, PA 16510
Attorney: Terrence P. Cavanaugh, Esq., 3336 Buffalo Road, Wesleyville, PA 16510

**ELLIS, WILLIAM J.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Jeffrey T. Ellis, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508
Attorney: Darlene M. Vlahos, Esquire, 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

**EVANOFF, EDITH JANE, a/k/a
E. JANE EVANOFF, a/k/a
JANE EVANOFF,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Dale P. Evanoff, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Damon C. Hopkins, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**FOTEK, ROBERT S.,
deceased**

Late of the City of Erie, Erie County, Pennsylvania

Co-Executrices: Carol A. Spencer, 4275 Phyllis Dr., Erie, PA 16510 and Barbara J. Anderson, 8887 Kirsch Road, Erie, PA 16510

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

**GORR, DANIEL G.,
deceased**

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

Co-Executors: Dolores A. Pitto and Richard A. Vollmer, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

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

**HOOVER, SHIRLEY MARIE,
a/k/a SHIRLEY M. HOOVER,
deceased**

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

Executor: Glenn A. Hoover, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

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

**JUILLIANO, ELEANOR P.,
deceased**

Late of Millcreek Township, Erie County

Executrix: Madeline Mink

Attorney: Stanley G. Berlin, Esquire, Shapira, Hutzelman, Berlin, Ely, Smith and Walsh, 305 West 6th Street, Erie, PA 16507

**MENSING, MARY B., a/k/a
BERYL MENSING, a/k/a
BERYL M. MENSING,
deceased**

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

Executrix: Patricia Marx

Attorney: Stephen H. Hutzelman, Esq., 305 West Sixth Street, Erie, PA 16507

**OMARK, WARREN R.,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania

Executor: Thomas E. Omark, 4659 Wolf Road, Erie, PA 16501

Attorney: Brian Glowacki, Esquire, Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**OTTENI, MARY V.,
deceased**

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

Executrix: Doris M. Causgrove, c/o Joseph A. Yochim, Esq., Yochim, Skiba & Nash, 345 West 6th Street, Erie, PA 16507

Attorney: Joseph A. Yochim, Esq., Yochim, Skiba & Nash, 345 West 6th Street, Erie, PA 16507

**REIGHARD, LOUISE F.,
deceased**

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

Executrix: A. Virginia Harris

Attorney: Stephen H. Hutzelman, Esq., 305 West Sixth Street, Erie, PA 16507

**SEVOK, GEORGE,
deceased**

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

Executrix: Nancy Dusckas, c/o 150 West Fifth St., Erie, PA 16507

Attorney: Colleen C. McCarthy, Esq., McCarthy, Martone & Peasley, 150 West Fifth St., Erie, PA 16507

**SIVILLO, ANNA M.,
deceased**

Late of the Township of Millcreek

Executor: Kent R. Sivillo, 6016

Fossilwood Court, Erie, PA 16506

Attorney: Michael A. Fetzner, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SPENIK, JOSEPHINE M.,
deceased**

Late of the City of Erie, Erie County, Pennsylvania

Executrix: Sandra L. Kennedy, 26280 Nickel Plate Road, Springboro, PA 16435

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

**WAGNER, WILBERT L.,
deceased**

Late of Harborscreek Township

Executor: Terrence P. Cavanaugh, Esq., 3336 Buffalo Road, Wesleyville, PA 16510

Attorney: Terrence P. Cavanaugh, Esq., 3336 Buffalo Road, Wesleyville, PA 16510

**WELTON, ROBERT J., a/k/a
ROBERT JAMES WELTON,
deceased**

Late of Erie, Erie County, Pennsylvania

Executor: Richard Welton, 175 Oregon Road, Volant, Pennsylvania 16156

Attorneys: McBride and McBride, P.C., 211 South Center Street, Grove City, Pennsylvania 16127



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27 Years- PSP

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Benjamin Suchocki
30 Years - FBI/IRS

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E-DISCOVERY COUNSEL

- Litigation 2nd Chair
- E-Discovery Mediator
- E-Discovery Special Master

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