

Erie County Legal Journal

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In the United States District Court for the Western District of Pennsylvania
Charter Oak Fire Insurance Co., et al. v. Lazenby, et al.

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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MONDAY, JULY 30, 2012

Medicaid and Estate Recovery Issues

ECBA Live Lunch-n-Learn Seminar

Bayfront Convention Center

12:15 - 1:15 p.m. (11:45 a.m. lunch/reg.)

\$32 (ECBA member/non-attorney staff)

\$48 (nonmember) \$22 (member Judge)

1 hour substantive

THURSDAY, AUGUST 16, 2012

At the Cross Roads of Accounting & Chapter 11

ECBA Live Seminar

Bayfront Convention Center

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

\$96 (ECBA member/non-attorney staff)

\$145 (nonmember) \$67 (member Judge)

3 hour substantive

WEDNESDAY, AUGUST 22, 2012

Immigration Law for the Corporate/Commercial &

Labor/Employment Attorney

ECBA Live Lunch-n-Learn Seminar

Bayfront Convention Center

12:15 - 2:15 p.m. (11:45 a.m. lunch/reg.)

\$64 (ECBA member/non-attorney staff)

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2 hours substantive

WEDNESDAY, AUGUST 29, 2012

Petitions to Settle Small Estates and Other Ways to

Avoid Formal Estate Settlement

ECBA Video Replay Seminar

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12:15 - 1:15 p.m. (11:45 a.m. lunch/reg.)

\$32 (ECBA member/non-attorney staff)

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FRIDAY, AUGUST 31, 2012

Fee Agreements

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12:15 - 1:15 p.m. (11:45 a.m. lunch/reg.)

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**CHARTER OAK FIRE INSURANCE COMPANY and THE AUTOMOBILE
INSURANCE COMPANY OF HARTFORD**

v.

MATTHEW P. LAZENBY, et al.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA 1:10-cv-00138-MBC

Appearances: Matthew C. Lenahan, Esq., Attorney for Plaintiffs
James J. Stuczynski, Esq. and Adam E. Barnett, Esq. Attorneys for
defendants A.B., a minor, Kevin Bawol and Nicole Drabic

OPINION

COHILL, Senior District Court Judge

Before the court are cross-motions for summary judgment in a declaratory judgment action under 28 U.S.C. § 2201. Plaintiffs Charter Oak Fire Insurance Company and the Automobile Insurance Company of Hartford, Connecticut (hereinafter, collectively "Travelers"), a Connecticut insurance company, seek a declaration that they do not have an obligation to defend or indemnify Matthew P. Lazenby in an underlying tort action filed in the Erie County Court of Common Pleas. Matthew P. Lazenby's parents, Matthew F. and Tracie Lazenby, with whom he lived at all times relevant to this suit, held a Homeowners Insurance Policy (hereinafter "Homeowners Policy") and Personal Excess Umbrella Policy (hereinafter "Umbrella Policy") with Travelers, and Travelers is presently defending the underlying action under reservation of rights.

The Defendants in the instant action were originally Matthew F. and Tracie Lazenby (husband and wife), Matthew P. Lazenby, Kevin Bawol, Nicole Bawol, A.B., and Stephanie Vitale. Matthew F. and Tracie Lazenby have been dismissed from the case, as they were not named as defendants in the underlying tort action. On September 20, 2010, the clerk of court entered default as to Matthew P. Lazenby and Stephanie Vitale, pursuant to Fed.R.Civ.P. 55(a) for failure to plead or otherwise defend. The remaining Defendants, Kevin Bawol, Nicole Bawol and A.B. ("Bawols" or "Defendants") filed briefs in opposition to Travelers' motion, as well as a motion seeking a declaration that Travelers does have a duty to defend and indemnify Matthew P. Lazenby. For the reasons that follow, the court concludes that Travelers does have a duty to defend under both policies, but dismisses without prejudice the declaratory judgment action on duty to indemnify.

Also before the court is Plaintiffs' Motion to Deem Facts Admitted and Material, in which the Plaintiffs claim that Defendants' concise statement of material facts does not comport with Local Rule 56. We will exercise our discretion and deny Plaintiffs' motion.

We have diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

I. Standard of Review

Summary judgment should be granted if the record, including pleadings, depositions, affidavits, and answers to interrogatories, demonstrates "that there is no genuine dispute as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(a). In making that determination, the "evidence of the non-movant is to

be believed, and all justifiable inferences are to be drawn in his favor." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). The question is whether "the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that one party must prevail as a matter of law." Id. at 251-52.

II. Factual Background

A. The Events of October 31, 2008

Unless otherwise noted, the following facts are not in dispute. Defendant Matthew P. Lazenby is the son of policyholders Matthew F. and Tracie Lazenby, and lived in their household at all relevant times. Complaint for Declaratory Judgment ("Complaint") at 3. On October 31, 2008, Matthew P. Lazenby ("Lazenby"), who was 20 years old at that time, spent the afternoon and evening with his girlfriend, Defendant Stephanie Vitale ("Stephanie" or "Vitale"), and her twenty-three month old daughter, Defendant A.B. ("A.B."). Id. They spent some time at Stephanie's mother's apartment, and left Stephanie's mother's apartment between 10:30 and 11:00 p.m. Ex. D (Transcript of Lazenby's Examination Under Oath (EUO)) at 64; Ex. E (Transcript of Lazenby's Deposition) at 17-22. Lazenby appears to admit he was intoxicated at this point, as he had been drinking on and off all day, drove over the median on the road and at another point, ran over a mail box. Defs.' M. for Summ. J. [Doc. 35] at 2. Once they got back from the apartment, Lazenby dropped A.B. and Stephanie off at Stephanie's apartment, and then went to the store to get cigarettes. Ex. D at 64; Ex. E at 17-22; Ex. I at 13 (Transcript of Stephanie Vitale's Deposition). While waiting for Lazenby to get back from the gas station, Vitale gave A.B. a bath, put her in her pajamas, and otherwise got her ready for bed, during which time A.B.'s behavior and personality were normal. Ex. I at 28, 35-36.

When Lazenby returned, Vitale left to meet friends at a local bar, leaving Lazenby alone with A.B.. Ex. E at 78; Ex. I at 36. According to Lazenby, A.B. had a "temper tantrum," including crying hysterically and yelling for her mother for what Lazenby described as a "good while." Ex. D at 65; Ex. E at 17-22, 82. Vitale testified that it was typical for her daughter to become upset when Vitale left her presence. Ex. I at 37.

As Vitale left the apartment, she heard A.B. crying for her "mom." Id. Vitale nevertheless got into her car. Id. Lazenby picked up A.B. to try to calm her down. Ex. D at 65; Ex. E at 17-22, 81-82. When that failed, Lazenby showed her a stuffed animal, walked out of the room to see if she would calm down by herself, and talked with A.B. Ex. D at 65; Ex. E at 17-22, 81-82, 115-16. When A.B. failed to calm down with these other efforts, Lazenby admits that he became "really irritated" and was "frustrated." Ex. D at 65, 102; Ex. E at 17-22, 108-09.

Lazenby told Erie Police that he "lost it" with A.B. at this point. Ex. J at 28-29 (Deposition of Detective John Barber). He was trying to "make her...realize" that she "can't have a spasm, or like a temper tantrum, you know, like, you can't do that." Ex. G at 3-8 (Lazenby's Recorded Police Interview). According to Detective Barber's deposition testimony, Lazenby reported that he picked A.B. up under the armpits and shook her two separate times. Ex. J at 29. Lazenby's testimony differs in this regard; he testified that he only shook A.B. once and struck the left side of her head with an open hand. Ex. D at 65; Ex. E at 17-22, 85; Ex. G at 3-8. While being shaken, A.B. became quiet, Ex. J at 28-30, and her head rocked back and forth, from shoulder to shoulder. Ex. D at 77-78; Ex.

E at 25-26. After Lazenby shook her, A.B. appeared to have fallen asleep, and Lazenby put her down in her bed. When he went back to check on her, she still appeared to be sleeping. Ex. E at 85-89.

Vitale testified that shortly thereafter she returned to the apartment in order to retrieve identification to enter the bar. Ex. I at 37-38. Lazenby was exiting A.B.'s room and he told Vitale that A.B. was sleeping. Id. at 38-39, 119. While Vitale was still at the apartment, A.B. began to choke on her own vomit. Id. at 39. Vitale testified that, after A.B. began to vomit, Lazenby began to cry and asked what he could do. Id. at 98-99. Vitale also testified that Lazenby was acting nervous, "panicked", and was smoking two cigarettes at the same time, which was odd for him. Id. at 98-99, 109-10, 140-50. Vitale asked that Lazenby give her a phone so that she could call 9-1-1, but he did not. Id. at 103-04.

After Lazenby left, approximately 10 minutes later, Vitale put A.B. in bed with her and stated that A.B. was vomiting throughout the night, though she had never previously vomited. Id. at 39-40, 43-44, 103. Stephanie thought it was highly unusual that A.B. had begun vomiting "out of nowhere," but attributed it to A.B. eating too much Halloween candy. Id. at 108-09. While A.B. was vomiting that night, she did not cry at all. Id.

At 10:00 the next morning, A.B. woke up and "projected vomit." Id. at 39-40. Vitale indicated that A.B.'s eyes were "different" and her mouth was "lock jawed." Id. Stephanie sought medical help at this point. Id. According to medical records, A.B. suffered bruises on the helix of her left ear, as well as inside the canal of her left ear, on her forehead, and on her back. Ex. K at 32-37 (Deposition of Dr. Rachel Berger). A.B. also suffered multiple retinal hemorrhages in both eyes. Id. at 59-60. The CT scans of A.B.'s head also demonstrated that she had an occipital skull fracture on the right side of her head. Id. at 48-49.

There does not appear to be any legitimate dispute that Lazenby caused A.B.'s injuries. Stephanie Vitale, who had full legal custody of A.B. for her entire life up until this point, knew of no abuse to A.B. up until the night of October 31, 2008. Ex. I at 44-45. She never noticed any marks or bruises on A.B. prior to the night in question. Id. at 70-71, 110. Vitale cannot explain the various serious injuries suffered by A.B. other than the actions of Lazenby. Id. at 120-22. Vitale never struck or hit or shook A.B., and A.B. was fine when Vitale left the apartment to meet her friends at the bar. Id.

B. Criminal Proceedings and Guilty Plea

Detective John Barber of the Erie County Police Department interviewed Lazenby on the morning of November 2, 2008. Ex. J at 28-30. At first, Lazenby denied shaking or harming A.B.. Id. at 25-27. Detective Barber asked Lazenby to take a voice stress analysis test, a type of "lie detector test." Lazenby agreed. As this test was being arranged, however, Lazenby changed his version of events. Id. at 24-25. Lazenby admitted to Detective Barber that he "probably lost it" with A.B.. Id. at 28-29.

Lazenby told Detective Barber that A.B. began to cry because Vitale left, and because he had turned off the movie she was watching. Id. at 28-30. He said that A.B. was crying "mommy, mommy" and that he picked her up under her arms and shook her and said "your mommy is not here." Id. While he was shaking A.B., she became quiet. Id.

After this point, the remainder of Lazenby's police interview was recorded on videotape. During the recorded portion of his police interview, Lazenby admitted that he shook A.B.

two separate times, and that he "smacked" her on the left side of her head with his hand. Ex. G at 3-8. Lazenby, at the end of his recorded interview, stated that "I f***ed up. Again." Id. at 9.

On or around November 7, 2008, a criminal complaint was filed against Matthew P. Lazenby¹ arising out of the incident in question. Ex. Q (Erie County Criminal Complaint). Lazenby was charged with four separate counts of criminal conduct: aggravated assault, simple assault, endangering the welfare of children, and recklessly endangering another person. Id. On September 8, 2009, he pled guilty to Count 1 (aggravated assault) and Count 3 (endangering welfare of children). Ex. R (Guilty Plea Signature). Count 1, aggravated assault, reads as follows:

The 20 year old male defendant did attempt to cause serious bodily injury to another, the 23 month old child, A.B., or causes such injury intentionally, knowingly or recklessly, under circumstances manifesting extreme indifference to the value of human life; by picking the child up twice and violently shaking her, causing the child's head to violently move back and forth in a whip-lash type motion, and by striking the side of the child's head. (citing 2703 (A)(I) of "PCC") [18 Pa. Cons. Stat. Ann. § 2702 (West 2005)].

Ex. Q.

Count 3, endangering welfare of children, reads as follows:

ENDANGERING WELFARE OF CHILDREN — By committing the above acts, the defendant, who was a parent, guardian, or other person supervising the welfare of a child under 18 years of age, the 23 month old child, A.B., knowingly endangered the welfare of the child, by violating a duty of care, protection, or support. (citing 4304(A) of PCC) [18 Pa. Cons. Stat. Ann. § 4304 (West 2007)].

Ex. Q. Lazenby was represented by counsel at his voluntary guilty plea. Ex. E at 43-45, 122; Ex. F (Guilty Plea Colloquy).

During his plea colloquy before Erie County Court of Common Pleas Judge Ernest DiSantis, Lazenby pled guilty to the aggravated assault charge (Count 1), admitting that he caused the injury to A.B. "intentionally, knowingly or recklessly, under circumstances manifesting extreme indifference to the value of human life." Ex. F at 5-6. Regarding the endangering welfare of children charge (Count 3), Lazenby pled guilty to "knowingly" endangering the welfare of A.B., Id. The Court explained the nature of the charges, the consequences of the guilty plea, and that Lazenby was facing jail time as a result of his plea. Id., Ex. E at 43-45. Lazenby was also advised at his plea colloquy that it was his choice whether to plead "guilty" or not, and that he had the right to plead "not guilty" and contest the charges at a trial. Ex. E at 43-45, 122; Ex. F. The charges of simple assault (Count 2) and recklessly endangering another person (count 3), were *nolle prossed* and dropped as part of the plea agreement. Ex. F at 7.

Lazenby's guilty pleas are the centerpiece of Traveler's arguments herein, because they

¹ We note that Vitale was sentenced in April 2009 for her role in the incident. Ex. I at 95.

call into question whether A.B.'s injuries were accidental. Both the relevant Homeowners Policy and Umbrella Policy contain similar provisions that indicate coverage will not be triggered unless the bodily injury being claimed resulted from an "occurrence." Complaint at 5. Travelers argues, relying on Lazenby's admitted guilt, that A.B.'s injuries did not result from an "occurrence." The Homeowners Policy (Ex. A) defines "occurrence" as nearly synonymous with "accident," specifically:

6. "Occurrence means an accident, including continuous or repeated exposure to substantially the same generally harmful conditions which results, during the policy period, in
 - a. "Bodily injury"; or
 - b. "Property damage".

Similarly, the Umbrella Policy (Ex. B) defines "occurrence" as follows:

9. "Occurrence means:
 - a. an accident, including continuous or repeated exposure to substantially the same generally conditions that results in "bodily injury" or "property damage" during the policy period.
 - b. an offense, including a series of related offenses, committed during the policy period, that results in personal injury".

C. Underlying Action

On October 21, 2010, A.B., by and through her father Kevin Bawol, filed suit in Erie County Common Pleas Court against Lazenby, seeking monetary damages arising from A.B.'s injuries, which were a "direct and proximate result of the negligence, recklessness and carelessness" on the part of Lazenby. Ex. C (Underlying Civil Complaint) at 4. This complaint alleges that Lazenby attempted to care for A.B. when he was unable to do so because of his intoxication, that he failed to provide sufficient care, failed to exercise proper supervision, and that he failed to hold A.B. "in a safe and reasonable manner." *Id.* at 3-4. It further alleges that Lazenby "was mentally impaired such that he did not have a conscious awareness of the effect of his actions." *Id.* at 3. The instant action notwithstanding, Travelers has provided Lazenby counsel to defend the underlying action. Pls.' Br. in Opp. to Defs.' Summ. Judgment M. at 12 [Doc. 41]. The parties have coordinated discovery in the underlying action with discovery in the instant case, but to date there has been no trial date set for the underlying action. Transcript of Post-Discovery Hearing August 16, 2011 at 4, 10 [Doc. 33].

III. Summary Judgment

Travelers moves for summary judgment on numerous grounds. Travelers argues that A.B.'s injuries were not accidental based on Lazenby's admission of guilt, which Travelers claims collaterally estops Lazenby from claiming that his actions were unintentional; Lazenby's awareness of the natural and likely results of his actions; the severity of A.B.'s injuries; and the doctrine of inferred intent. Pls.' M. for Summ. J. at 4-20. In response, Defendants argue that Lazenby's intoxication negates the effect of his plea and shows that he was not aware what the results of his actions would be. Defs.' Br. in Opp. at 9. They further argue that the severity of the injuries, without consideration of the insured's mental

state, is irrelevant and that inferred intent in this case is not the law in Pennsylvania. Id. at 10-11.

In contrast, Defendants' motion for summary judgment rests on the notion that Plaintiffs are unable to carry their burden of proof to demonstrate that the loss falls under one of the relevant exclusions. Defs.' M. for Summ. J. at 13.

In considering the motions for summary judgment, we are mindful that the Pennsylvania law, which the parties agree applies, holds that the "duty to defend is a distinct obligation, different from and broader than [the] duty to indemnify." Aetna Cas. & Sur. Co. v. Roe, 650 A.2d 94, 98 (Pa. Super. 1994). As such, we will consider these two duties separately.

A. Duty to Defend

"An insurer's duty to defend an action against the insured is measured ... by the allegations in the plaintiff's pleadings." Donegal Mut. Ins. Co. v. Baumhammers, 938 A.2d 286, 290 (Pa. 2007). "An insurer must defend its insured if the underlying complaint alleges facts which, if true, would actually or *potentially* bring the claims within the policy coverage." Bd. of Pub. Educ. of Sch. Dist. of Pittsburgh v. Nat'l Union Fire Ins. Co. of Pittsburgh, 709 A.2d 910, 913 (Pa. Super. 1998). "It is not the actual details of the injury, but the nature of the claim which determines whether the insurer is required to defend." Roe, 650 A.2d at 98.

After a review of the underlying action, we find that Travelers clearly has a duty to defend, and they have conceded that point. *See* Pls.' Sur-Reply Br. at 7 ("Travelers does not dispute that [the] face of the underlying Complaint alleges negligent conduct which triggers the defense allegation."). The underlying complaint alleges facts, particularly Lazenby's intoxication and its effect on his actions, that would cause A.B.'s injuries to fall within the insurance coverage, if proven. Implicit in Travelers' concession as to the duty to defend is that Lazenby is not collaterally estopped from litigating his intent regarding A.B.'s injuries. Both the Homeowners and Umbrella Policies are triggered only when an accident results in bodily injury. Pls.' M. at 4-5. In Pennsylvania, "absent a specific intent to cause the harm that resulted, [an] event is an accident for purposes of insurance coverage." Franklin Ins. Co. v. Roberts, 859 A.2d 492, 494 (Pa. Super. 2004). Specific intent is demonstrated, and an injury "is not "accidental," if the injury was the natural and expected result of the insured's actions." Baumhammers, 938 A.2d at 292. As such, if Lazenby were collaterally estopped from claiming that the injuries were unintentional, the underlying complaint would not allege an accident, and would thus not potentially fall within the policy coverage. By conceding a duty to defend, Travelers implicitly concedes, albeit unintentionally, that Lazenby is not collaterally estopped.

This concession accords with our analysis of the collateral estoppel issue. Pennsylvania courts allow the use of a criminal conviction "to establish operative facts in a subsequent civil case," but only if the latter is "based on those same facts." Commw. Dep't of Transp. v. Mitchell, 535 A.2d 581, 585 (Pa. 1987). Collateral estoppel based on a criminal conviction applies when the "party bound by the prior determination had adequate incentive to contest the issue and an adequate forum in which to litigate." Folino v. Young, 568 A.2d 171, 173 (Pa. 1990); *see also* Erie Ins. Exch. v. Muff, 851 A.2d 919, 931 (Pa. Super. 2004) (holding that "collateral estoppel is applicable when ... [a]n issue decided in a prior action is identical to one presented in a later action ... and [t]he party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action.").

Under Pennsylvania law, Lazenby's "voluntary intoxication ... is [neither] a defense to a criminal charge, nor may evidence of such conditions be introduced to negative the element of intent of the offense" 18 PA C.S. § 308. Conversely, for insurance cases such as this one, "imbibed intoxicants *must be considered* in determining whether the actor has the ability to formulate an intent. If the actor does not have the ability to form an intent, the resulting act cannot be intentional." Stidham v. Millvale Sportsmen's Club, 618 A.2d 945, 953 (Pa. Super. 1992) (emphasis added). While intoxication does not "prevent a court from finding that [an actor] intends the natural and probable consequences of his actions," and may assist in forming an anti-social intent, the court must still consider the intoxication. State Farm v. Mehlman, 589 F.3d 105, 112-13 (3d Cir. 2009).

Lazenby pled guilty to aggravated assault, a crime which requires as a minimum *mens rea* recklessness with extreme indifference to human life. Pls.' M. at 7. Even assuming, *arguendo*, that an action with a heightened standard of recklessness can never be accidental, Lazenby is not collaterally estopped from litigating intent here. Pennsylvania maintains different standards for consideration of intoxication in criminal and civil actions, so the criminal and civil determinations of Lazenby's intent are neither identical, nor based on the same operative facts. The conviction establishes that Lazenby was at least exceedingly reckless as determined by the applicable criminal code, but only when his intoxication was not considered. In an insurance case, however, where intoxication must be considered, the criminal conviction does not *conclusively establish* that Lazenby had the requisite intent under the relevant policies. Furthermore, Lazenby had no incentive to litigate or contest the effect of his intoxication in the criminal case, as that evidence would have had no impact on the outcome of the case. Collaterally estopping Lazenby based on his conviction would punish him for not litigating a fact which was expressly legally irrelevant in the criminal case. In light of these considerations, we find that collateral estoppel does not apply in this case.

In accordance with Travelers' concession that it has a duty to defend Lazenby, we will grant Defendants' motion for summary judgment on that issue.

B. Duty to Indemnify

As part of the instant declaratory judgment action, we are also asked to resolve the issue of Travelers' duty to indemnify Lazenby in the event that he is found liable in the underlying action. As we explained *supra*, the underlying state court action against Lazenby, sounding in negligence, has not yet been finally adjudicated. Accordingly, the duty to indemnify action is not yet ripe and we will dismiss it without prejudice.

1. Raising Ripeness *Sua Sponte*

As neither party has raised the issue of whether the action on duty to indemnify is ripe, we must first ascertain that we have the authority to do so on our own motion. The United States Court of Appeals for the Third Circuit "has recognized that considerations of ripeness are sufficiently important that the court is required to raise the issue *sua sponte* even though the parties do not." Cnty. Concrete Corp. v. Town of Roxbury, 442 F.3d 159, 163 (3d Cir. 2006); Peachlum v. City of York, 333 F.3d 429, 433 (3d Cir. 2003). While ripeness can turn on either Article III or prudential considerations, the Supreme Court has held that "the question of ripeness may be considered on a court's own motion" even if it is based only

on prudential concerns. Nat'l Park Hospitality Ass'n v. Dept of Interior, 538 U.S. 803, 808 (2003). Accordingly, we must determine if the duty to indemnify motion is ripe.

2. Ripeness

Ripeness "is at least partially grounded in the case or controversy requirement." Victoria Ins. Co. v. Mincin Insulation Servs., Inc., No. 08-909, 2009 WL 90644 (W.D. Pa. Jan. 14, 2009) (quoting Armstrong World Industries, Inc. by Wolfson v. Adams, 961 F.2d 405, 411 n. 12 (3d Cir. 1992)), and is "designed ... to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements." Nat'l Park Hospitality Ass'n, 538 U.S. at 807. Accordingly, "the most important factors in determining whether a case is ripe are the adversity of the interest of the parties, the conclusiveness of the judicial judgment and the practical help, or utility, of that judgment." Lewis v. Alexander, No. 11-3439, 2012 WL 2334322 at * 9 (3d Cir. June 20, 2012) (citation and internal quotation marks omitted). We are also guided by Pennsylvania and federal case law, which are in accord in holding that declaratory judgments on an insurer's duty to indemnify are appropriate only after liability has been determined in the underlying complaint. *See, e.g., C. H. Heist Caribe Corp. v. Am. Home Assur. Co.*, 640 F.2d 479, 483 (3d Cir. 1981) (holding that a decision on insurer's "obligation to indemnify" was premature prior to a decision on the underlying liability); Unionamerica Ins. Co., v. J.B. Johnson, 806 A.2d 431, 434 (Pa. Super. 2002) (holding that it "was premature for trial court to rule on the [duty to indemnify]" before the underlying claim was settled). We now turn to the application of the relevant ripeness factors.

a. Adversity

In considering adversity, we must determine if the parties have opposing legal interests, such that "actual harm will result if the declaratory judgment is not granted." Hartford Fire Ins. Co. v. InterDigital Commc'ns Corp., 464 F. Supp. 2d 375, 379. Lewis, 2012 WL 2334322 at * 9. In Pennsylvania, "[t]he duty to indemnify arises only if, after trial ... it is determined that the loss suffered is covered by the terms of the policy." Unionamerica, 806 A.2d at 434. Here, there is insufficient adversity between Travelers on the one hand, and Lazenby and the Bawols on the other. As to Lazenby, there is no adversity because he and Travelers share a similar interest, namely that he be found not liable for A.B.'s injuries. *See Victoria*, 2009 WL 90644 at * 6. As to the Bawols, the adversity is at most hypothetical, because if Lazenby is not found liable for A.B.'s injuries, Travelers will not have an interest adverse to them, at least in this case. Furthermore, because Travelers has already conceded the duty to defend, declining to issue a declaration on the duty to indemnify does not harm Travelers, as it incurs no further loss by defending Lazenby.

b. Conclusiveness

Even if we were to rule on the declaratory judgment action in favor of Travelers, the decision would not necessarily be conclusive. "It is not inconceivable that the Court could determine that coverage does not exist...yet [the Bawols] could ultimately prevail on a theory within the [p]olicies' coverage." InterDigital, 464 F. Supp. 2d at 381. The question of an insurer's duty to indemnify turns on the facts found in the underlying action, not the complaint. *Id.* A risk therefore arises "that, subsequent to the hypothesized declaratory judgment and the termination of the state-court litigation, yet a third round of litigation

would be required to determine whether the state-court decisions were within the scope of the declaratory judgment." Victoria, 2009 WL 90644 at *6 (citations omitted). In addition, as previously noted, any declaration about duty to indemnify would be hypothetical, as it would be contingent on a liability determination in the underlying action. InterDigital, 464 F. Supp. 2d at 381. As such, any ruling we made would not be sufficiently conclusive, and could be procedurally awkward.

c. Utility

Because of the uncertainty inherent in hypothetical decision making, any declaration as to Travelers' duty to indemnify would be of little utility to the parties. While the parties have indicated that our decision might influence the course of the underlying action by determining whether or not Travelers would have to pay in the event of liability, *see* Transcript of Post-Discovery Hearing, August 16, 2011 at 10 [Doc. 33], for the reasons noted above, this argument misses the point. Even a decision that Travelers has no duty to indemnify would not conclusively establish the facts that a jury in the underlying case might find. While a decision negating the duty to defend would necessarily imply no duty to indemnify, at this time we "cannot *separately* declare the existence or non-existence of a duty to indemnify." Victoria, 2009 WL 90644 at *6.

d. Conclusion

Numerous courts, both federal and state, have held that declaratory actions on duty to indemnify only become ripe after the underlying liability is settled. *See* Nationwide Ins. v. Zavalis, 52 F.3d 689 (7th Cir. 1995) (interpreting Pennsylvania law); C.H. Heist, 604 F.2d at 483; InterDigital, 464 F. Supp. 2d at 379; Cincinnati Ins. Cos. v. Pestco Inc., 374 F. Supp. 2d 451, 464-65 (W.D. Pa. 2004); Hartford Cas. Ins. Co. v. Dental Org. for Conscious Sedation, No. 10-3483, 2011 WL 1315486 (W.D. Pa. April 1, 2011) at *2; Victoria, 2009 WL 90644 at *6; Unionamerica, 806 A.2d at 434; Heffernan & Co. v. Hartford Ins. Co. of America, 614 A.2d 295, 298 (Pa. Super. 1992); United Services Auto Ass'n v. Elitzky, 517 A.2d 982, 992 (Pa. Super. 1986). Accordingly, we align ourselves with these courts, and hold that Travelers' action for duty to indemnify is not yet ripe. As such, the action must be dismissed without prejudice.

IV. Motion to Deem Facts Admitted and Material

Nevertheless, we feel compelled to decide Plaintiffs' motion regarding Defendants' concise statement of material facts, as it relates to the duty to defend as well as the duty to indemnify. In responding to Plaintiffs' concise statement, Defendants often submitted "no response," rather than admitting or denying Plaintiffs' facts, *See generally*, Defendants' Concise Counterstatement of Material Facts [Doc. 43].

Local Rule 56(C)(1) requires that a party responding to another party's motion for summary judgment must prepare its own statement

- a. admitting or denying whether each fact contained in the moving party's Concise Statement of Material Facts is undisputed and/or material; [and]
- b. setting forth the basis for the denial if any fact contained in the moving party's Concise Statement of Material Facts is not admitted in its entirety (as to whether it is undisputed or material), with appropriate reference to the record.

LCvR 56. The responding party must also set "forth in separately numbered paragraphs any other material facts that are allegedly at issue" Id. Local Rule 56(A), however, states that "[t]he [Local Rule 56] procedures ... shall govern all motions for summary judgment made in civil actions unless the Court, on its own motion, directs otherwise, based on the particular facts and circumstances of the individual action." Id.

The Defendants' response (or lack thereof) to Plaintiffs' concise statement clearly does not comport with Local Rule 56(C), as it neither admits nor denies the veracity of the facts. Even if this were construed as a denial, it does not explain the basis therefor, as the local rule mandates. Similarly, Defendants' attempt to incorporate facts from their summary judgment brief does not follow the rule's requirement that facts be set forth in separately numbered paragraphs. While we recognize that some "courts in this district have strictly applied Local Rule 56 and deemed uncontroverted facts to be admitted," Emigh v. Miller, No. 08-1726, 2010 WL 2926213 (W.D. Pa. July 23, 2010), we are not inclined to so hold. Pursuant to Local Rule 56(A), in the interests of justice, we exercise our judicial discretion and decline to deem these "uncontroverted" facts as "admitted." The purpose of the concise statements is to assist the court in understanding which facts are in dispute for the purposes of deciding the summary judgment motions. Lewis v. Delp Family Powder Coatings, Inc., No. 08-1365, 2010 WL 3672240 (W.D. Pa. Sept. 15, 2010). The briefs accompanying the cross motions for summary judgment have more than sufficed in clarifying the key issue: the effect of Lazenby's intoxication on his intent regarding A.B.'s injuries. Accordingly, we will deny Plaintiffs' motion to deem the facts admitted and material.

V. Conclusion

For the reasons set forth above, we will grant Defendants' motion for summary judgment on Plaintiffs' duty to defend, deny Plaintiffs' motion for summary judgment on the duty to defend, and dismiss without prejudice the action for a declaratory judgment on duty to indemnify. In addition, we will deny Plaintiffs' motion to deem facts admitted and material. An appropriate order will be entered.

ORDER

AND NOW, to-wit, this 18th day of July 2012, for the reasons stated in the accompanying opinion, filed contemporaneously hereto, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. Defendants' Motion for Summary Judgment [Doc. 35] is GRANTED IN PART as to the duty to defend.
2. Plaintiffs' Motion for Summary Judgment [Doc. 37] is DENIED IN PART as to the duty to defend.
3. Plaintiff's Declaratory Judgment Action [Doc. 1] is DISMISSED WITHOUT PREJUDICE as to the duty to indemnify, due to lack of ripeness.
4. Plaintiff's Motion to Deem Facts Admitted and Material [Doc. 45] is DENIED.

/s/ Maurice B. Cohill, Jr.
Senior United States District Court Judge

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CHANGE OF NAME NOTICE

Notice is hereby given that on June 7, 2012 a Petition for Change of Name was filed in the Erie County Court of Common Pleas, PA, requesting a Decree to change the name of Giovantae Hailey Long Calkins to Hailey Giavantae Long-Brown. The Court has scheduled a hearing on a Rule to Show Cause for July 31, 2012 at 10:00 am in Courtroom A of the Erie County Courthouse, where at such time all interested persons may appear and show cause why the Petition for Change of Name should not be granted. Questions in writing to: Patrick W. Kelley, Esq. Vendetti & Vendetti 3820 Liberty Street Erie, PA 16509

Jul. 27

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania Docket No. 12415-12 In Re: Zach Angel Notice is hereby given that a Petition was filed in the above named court requesting an order to change the name of Zach Angel to Zach Chylinski.

The Court has fixed the 14th day of August, 2012 at 9:00 a.m. in Courtroom H of the Erie County Courthouse, 140 W. 6th St., Erie, PA 16501 as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jul. 27

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania Docket No. 12687-12

In Re: Miguel Angel Kowalewski Notice is hereby given that a Petition was filed in the above named court requesting an order to change the name of Miguel Angel Kowalewski to Miguel Angel Velez.

The Court has fixed the 7th day of August, 2012 at 9:00 a.m. in Courtroom B of the Erie County Courthouse, 140 W. 6th St., Erie,

PA 16501 as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jul. 27

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania Docket No. 12478-12

In Re: Cindy L. Pancerev Notice is hereby given that a Petition was filed in the above named court requesting an order to change the name of Cindy L. Pancerev to Cindy L. Kimes.

The Court has fixed the 6th day of September, 2012 at 10:00 a.m. in Courtroom A of the Erie County Courthouse, 140 W. 6th St., Erie, PA 16501 as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jul. 27

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania Docket No. 12569-12

In Re: Rose Marie Stefanelli Notice is hereby given that a Petition was filed in the above named court requesting an order to change the name of Rose Marie Stefanelli to Rose Marie Stef.

The Court has fixed the 2nd day of August, 2012 at 10:00 a.m. in Courtroom A of the Erie County Courthouse, 140 W. 6th St., Erie, PA 16501 as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

Jul. 27

FICTITIOUS NAME NOTICE

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business under an

Assumed or Fictitious Name." Said Certificate contains the following information:

FICTITIOUS NAME NOTICE

1. Fictitious Name: Eagle Auto Service & Collision Center
 2. Principal business address: 8835 Walmer Drive, McKean, Pennsylvania 16426
 3. Name and address of the entity who is a part to the registration: Great Lakes Automation Services, Inc., 8835 Walmer Drive, McKean, Pennsylvania 16426
 4. An application for registration of the fictitious name was filed with the Department of State under the Fictitious Names Act on or about July 6, 2012.
- Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, Pennsylvania 16501

Jul. 27

FICTITIOUS NAME NOTICE

1. Fictitious Name: GlobalGreen Insurance Agency
 2. Principal business office: 9216 West Lake Road, Lake City, PA 16423
 3. Names and addresses of the persons party to the registration: GG Solutions, LLC, 9216 West Lake Road, Lake City, PA 16423
 4. An application for registration of the fictitious was filed in the office of the Department of State of the Commonwealth of Pennsylvania on or about July 5, 2012.
- Scott E. Miller, Esq.
246 West Tenth Street
Erie, PA 16501

Jul. 27

INCORPORATION NOTICE

MOBILIA FARMS, INC. has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988. Orton & Jeffery, P.C. 33 East Main Street North East, Pennsylvania 16428

Jul. 27

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

**AUGUST 17, 2012
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

Jul. 27 and Aug. 3, 10

SALE NO. 1

Ex. #32908 of 2009

**THE HUNTINGTON
NATIONAL BANK, Plaintiff**

v.

**PASCAL J. ARTISE and
TRACY A. ARTISE, Defendants
SHORT DESCRIPTION**

Unit #2 and Unit #3 of premises known as 4646 Buffalo Road, Harborcreek Township, Erie County, Pennsylvania, as established by a Declaration of Condominium dated February 1, 2011 and recorded February 25, 2011 as Erie County Recorder of Deeds Instrument No. 2011-004745 and bearing Erie County Tax Index Numbers (27) 13-105-651 and (27) 13-105-652, formerly comprising a portion

of Erie County Tax Index Number (27) 13-105-6.02. HAVING ERECTED THEREON a commercial building consisting of a skating rink and a sports bar.

Susan Fuhrer Reiter, Esq.

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

Jul. 27 and Aug. 3, 10

SALE NO. 2

Ex. #10431 of 2012

**Bank of America, N.A., successor
by merger to BAC Home Loans
Servicing, LP f/k/a Countrywide
Home Loans Servicing, LP,
Plaintiff**

v.

**MARK J. ANTHONY, II,
Defendant(s)**

**SHORT DESCRIPTION FOR
ADVERTISING**

ALL THAT CERTAIN LOT OF LAND SITUATE IN FIFTH WARD OF THE CITY OF ERIE, ERIE COUNTY, PENNSYLVANIA:

BEING KNOWN AS 327 East 27th Street, Erie, PA 16504

PARCEL NUMBER: 18-5078-113

IMPROVEMENTS: Residential Property

Udren Law Offices, P.C.

Elizabeth L. Wassall, Esq.

PA ID 77788

Attorney for Plaintiff

111 Woodcrest Road, Suite 200

Cherry Hill, NJ 08003-3620

856-669-5400

Jul. 27 and Aug. 3, 10

SALE NO. 3

Ex. #14972 of 2010

**HSBC Bank USA, National
Association, as Trustee for ACE
Securities Corp. Home Equity
Loan Trust, Series, 2006-OP1,
Asset Backed Pass-Through
Certificates, Plaintiff**

v.

**Steven K. Bauer, United States of
America, Defendant(s)**

LEGAL DESCRIPTION

THE FOLLOWING described premises situated in the City

and County of Erie, State of Pennsylvania, to wit:

ALL THAT CERTAIN piece or parcel of land situate in the Township of Millcreek, now Fourth Ward of the City of Erie, County of Erie, and State of Pennsylvania, in what is known as Kahkwa Park Subdivision of Tract No. 33, and the west one-half of Tract No. 32 of the third section of the Town of Erie, made by the Kahkwa Park Realty Company as shown upon map of said subdivision recorded in the office of the Recorder of Deeds of Erie County, Pennsylvania, aforesaid, in Map Book No. 2, pages 146 and 147, bounded and described as follows:

BEGINNING at a point of intersection of the north line of South Shore Drive with the west line of said Kahkwa Park Subdivision; thence by said west line, north twenty-six (26) degrees, fifty-two (52) minutes west four hundred fifty and five-tenths (450.5) feet to a point in the west line of the Yacht Club property; thence by the south line of said Yacht Club property south seventy-one (71) degrees fifty-two (52) minutes east one hundred forty-one and forty-two hundredths (141.42) feet to a point; thence by a line parallel to the west line of Kahkwa Park, south twenty-six (26) degrees fifty-two (52) minutes east, three hundred fifty and five-tenths (350.5) feet to the north line of South Shore Drive; thence by the north line of said South Shore Drive, south sixty-three (63) degrees eight (8) minutes west, one hundred (100) feet to the place of beginning, and having erected thereon a dwelling house known as 1850 South Shore Drive, Erie, Pennsylvania.

ALSO, ALL that certain tract or lot of seated land, situate in the Fourth Ward, City of Erie, County of Erie, and State of Pennsylvania and described as follows, to wit:

N.S. South Shore Dr., foot of Kahkwa Blvd. Lot 10 X 250 feet, index 4127-106 situated in the Fourth Ward, City of Erie, County of Erie, and Commonwealth of Pennsylvania

BEING KNOWN AS: 1850 South Shore Drive, Erie, PA 16505
PROPERTY ID NO.:
 170410220102200
TITLE TO SAID PREMISES IS VESTED IN Steven K. Bauer by deed from David M. Zurn and Barbara S. Zurn, his wife dated 01/27/2006 recorded 02/06/2006 in Deed Book 1304 Page 1311.
 Udren Law Offices, P.C.
 Paige M. Bellino, Esquire
 PA ID 309091
 Attorney for Plaintiff
 111 Woodcrest Road, Suite 200
 Cherry Hill, NJ 08003-3620
 856-669-5400

Jul. 27 and Aug. 3, 10

SALE NO. 5

Ex. #12339 of 2010

**The Bank of New York Mellon,
 as Indenture Trustee for the
 registered holders of ABFS
 Mortgage Loan Trust 2002-3,
 Mortgage Pass-Through
 Certificates, Series 2002-3,
 Plaintiff**

v.

**Joseph A. Thayer (Mortgagor)
 Renee M. Di Franco-Thayer
 Defendant(s)**

LEGAL DESCRIPTION

ALL THAT CERTAIN piece or parcel of land situate in the Township of Washington, County of Erie and State of Pennsylvania, being more particularly described as follows, to-wit: BEING Lot No. 90 of Conneauttee Heights Subdivision, Section No. V, as recorded May 23, 1990, in Erie County Map Book 36, Page 105, and re-recorded June 6, 1990, in Erie County Map Book 36, Page 120, and as shown on replot of said subdivision recorded October 5, 1990, in Erie County Map Book 37, Page 39.

ALSO, ALL that certain piece or parcel of land situate in the Township of Washington, County of Erie and State of Pennsylvania, being more particularly described as follows, to-wit: BEING parcel A of Conneauttee Heights Subdivision, Section No. VI, as recorded June 15, 1992, at Erie County Map No. 1992-169.

SAID premises have erected

thereon a dwelling commonly known as 12793 Forrest Drive, Edinboro, Pennsylvania and are further identified by Erie County Assessment Index No. (45) 21-45-6.15.

BEING the same premises conveyed to the Mortgagor(s) by Deed which is intended to be recorded forthwith. BORROWER has no knowledge of the existence of hazardous material on the premises and will indemnify and save harmless lender from all claims.

BEING KNOWN AS: 12793 Forrest Drive, Edinboro, PA 16412
PROPERTY ID NO.: 45-21-45-6.15
TITLE TO SAID PREMISES IS VESTED IN Renee M. DiFranco-Thayer by Deed from Joseph A. Thayer and Renee M. DeFranco-Thayer dated 06-15-05 recorded 12/11/07 in Deed Book 1465 Page 1184.

Udren Law Offices, P.C.

Amy Glass, Esquire

PA Bar #308367

NJ Bar #13862010

Attorney for Plaintiff

111 Woodcrest Road, Suite 200

Cherry Hill, NJ 08003-3620

856-669-5400

Jul. 27 and Aug. 3, 10

SALE NO. 8

Ex. #10518 of 2012

**NORTHWEST SAVINGS
 BANK, Plaintiff,**

v.

**MARK C. TERRILL and
 JENNY TERRILL, Defendants
SHERIFF'S SALE**

By virtue of a Writ of Execution filed at No. 2012-10518, Northwest Savings Bank vs. Mark C. Terrill and Jenny Terrill, owners of property situate in the Township of Washington, Erie County, Pennsylvania being: 13718 Edinboro Plank Road, Cambridge Springs, Pennsylvania.

Approx. 1.838 acres

Assessment Map Number:
 (45) 25-62-6.02

Assessed Value Figure: \$74,200.00

Improvement Thereon: Residence

Kurt L. Sundberg, Esq.

Marsh Spaeder Baur Spaeder

& Schaaf, LLP

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

Jul. 27 and Aug. 3, 10

SALE NO. 9

Ex. #13903 of 2011

**HSBC BANK USA,
 NATIONAL ASSOCIATION,
 AS TRUSTEE FOR NAAC
 MORTGAGE PASS-THROUGH
 CERTIFICATES, SERIES
 2007-1, Plaintiff**

v.

**KELLY BEEMAN, Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 13903-11

HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR NAAC MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-1 vs. KELLY BEEMAN

Amount Due: \$58,009.67

KELLY BEEMAN, owner(s) of property situated in the CITY OF ERIE, Erie County, Pennsylvania being 1906 GLENDALE AVENUE, ERIE, PA 16510-1222

Dimensions: 71.6 X 125

Acreage: 0.2055

Assessment Map number:
 18051028032300

Assessed Value: \$51,260.00

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

Jul. 27 and Aug. 3, 10

SALE NO. 10

Ex. #12279-09

**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)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 12279-09

US BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR CERTIFICATEHOLDERS OF BEAR STEARNS ASSET BACKED SECURITIES I LLC, ASSET BACKED CERTIFICATES, SERIES 2004-AC7 vs. JOSEPH FENDONE
Amount Due: \$113,273.25
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
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

Jul. 27 and Aug. 3, 10

SALE NO. 11

Ex. #10873 of 2012

**GMAC MORTGAGE, LLC,
Plaintiff**

v.

**MICHAEL D. FOLEY,
Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 10873-12
GMAC MORTGAGE, LLC vs. MICHAEL D. FOLEY
Amount Due: \$64,246.99
MICHAEL D. FOLEY, owner(s) of property situated in the CITY OF ERIE, Erie County, Pennsylvania being 807 EAST 10TH STREET, ERIE, PA 16503-1415
Dimensions: 30.2 X 65
Acreage: .0451
Assessment Map number: 15020039020900
Assessed Value: \$28,730
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

Jul. 27 and Aug. 3, 10

SALE NO. 12

Ex. #10013 of 2012

**SUNTRUST MORTGAGE, INC.,
Plaintiff**

v.

**CHRISTOPHER A.
HAMMOND, Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 10013-12
SUNTRUST MORTGAGE, INC. vs. CHRISTOPHER A. HAMMOND
Amount Due: \$80,638.78
CHRISTOPHER A. HAMMOND, owner(s) of property situated in the TOWNSHIP OF FRANKLIN, Erie County, Pennsylvania being 9701 EUREKA ROAD, EDINBORO, PA 16412-5903
Acreage: 2.78
Assessment Map number: 22002013001900
Assessed Value: \$73,520.00
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

Jul. 27 and Aug. 3, 10

SALE NO. 13

Ex. #11701 of 2010

**JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION,
S/B/M TO CHASE HOME
FINANCE, LLC, Plaintiff**

v.

**RODNEY G. HOLTON
CHRISTINE M. HOLTON,
Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution filed to No. 11701-10
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, S/B/M TO CHASE HOME FINANCE, LLC vs. RODNEY G. HOLTON and CHRISTINE M. HOLTON
Amount Due: \$198,455.16
RODNEY G. HOLTON and CHRISTINE M. HOLTON, defendants and owner(s) of property situated in the TOWNSHIP OF HARBORCREEK, Erie County, Pennsylvania being 3263 DEPOT

ROAD, HARBORCREEK, PA 16421
Dimensions: 114 x 343.7
Acreage: 0.8120
Assessment Map number: 27062206005400
Assessed Value: \$163,890.00
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

Jul. 27 and Aug. 3, 10

SALE NO. 14

Ex. #10738 of 2012

**GOVERNMENT LOAN
SECURITIZATION TRUST
2011-FV1 (THE ISSUER) BY
WELLS FARGO BANK N.A.
(THE SERVICER), SOLELY IN
ITS CAPACITY AS SERVICER,
WITH DELEGATED
AUTHORITY UNDER THE
TRANSACTION DOCUMENTS,
Plaintiff**

v.

**LISA MARIE LENOX
Defendant(s)**

SHERIFF'S SALE

By virtue of a Writ of Execution filed to No. 10738-12
GOVERNMENT LOAN SECURITIZATION TRUST 2011-FV1 (THE ISSUER) BY WELLS FARGO BANK N.A. (THE SERVICER), SOLELY IN ITS CAPACITY AS SERVICER, WITH DELEGATED AUTHORITY UNDER THE TRANSACTION DOCUMENTS vs. LISA MARIE LENOX
Amount Due: \$165,457.08
LISA MARIE LENOX, owner(s) of property situated in the TOWNSHIP OF MILLCREEK, Erie County, Pennsylvania being 3552 BREEZEWAY DRIVE, ERIE, PA 16506-1937
Dimensions: 105.57 X 165
Acreage: .3605
Assessment Map number: 33063370001300
Assessed Value: \$120,080
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

Jul. 27 and Aug. 3, 10

SALE NO. 15

Ex. #10562 of 2012

**JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION
S/B/M TO CHASE HOME
FINANCE, LLC S/B/M TO
CHASE MANHATTAN
MORTGAGE CORPORATION
S/B/M TO CHASE MORTGAGE
COMPANY, Plaintiff**

v.

**BRIAN E. LOCK, II
ELIZABETH E. LOCK,
Defendant(s)**

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 10562-12

JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION
S/B/M TO CHASE HOME
FINANCE, LLC S/B/M TO
CHASE MANHATTAN
MORTGAGE CORPORATION
S/B/M TO CHASE MORTGAGE
COMPANY vs. BRIAN E. LOCK,
II and ELIZABETH E. LOCK

Amount Due: \$59,865.37

BRIAN E. LOCK, II and
ELIZABETH E. LOCK, owner(s)
of property situated in the CITY OF
ERIE, Erie County, Pennsylvania
being 838 EAST 26TH STREET,
ERIE, PA 16504-2825

Dimensions: 30 X 150

Acreage: .1033

Assessment Map number:
180500351013200

Assessed Value: \$27,250

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

Jul. 27 and Aug. 3, 10

SALE NO. 16

Ex. #13275 of 2010

**BANK OF AMERICA, N.A. AS
SUCCESSOR BY MERGER
TO BAC HOME LOANS
SERVICING, LP, Plaintiff**

v.

**ANDREW R. O'HARA,
Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution
filed to No. 13275-10

BANK OF AMERICA, N.A. AS
SUCCESSOR BY MERGER TO
BAC HOME LOANS SERVICING,
LP vs. ANDREW R. O'HARA

Amount Due: \$72,622.39

ANDREW R. O'HARA, owner(s)
of property situated in the CITY OF
ERIE, Erie County, Pennsylvania
being 2801 REED STREET, ERIE,
PA 16504-1240

Dimensions: 33.75 x 120

Acreage: 0.0930

Assessment Map number:
18050061021900

Assessed Value: \$51,260.00

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

Jul. 27 and Aug. 3, 10

SALE NO. 17

Ex. #10133 of 2012

**WELLS FARGO BANK, N.A.,
S/B/M WELLS FARGO HOME
MORTGAGE, INC., Plaintiff**

v.

**JAMES PRUVEADENTI,
IN HIS CAPACITY AS
EXECUTOR AND DEVISEE
OF THE ESTATE OF
FRANK D. PRUVEADENTI,
JR., NICOLE PRUVEADENTI,
IN HER CAPACITY AS
DEVISEE OF THE ESTATE OF
FRANK D. PRUVEADENTI,
JR., Defendant(s)
SHERIFF'S SALE**

By virtue of a Writ of Execution
filed to No. 10133-12

WELLS FARGO BANK, N.A.,
S/B/M WELLS FARGO HOME
MORTGAGE, INC. vs. JAMES
PRUVEADENTI, IN HIS
CAPACITY AS EXECUTOR AND
DEVISEE OF THE ESTATE OF
FRANK D. PRUVEADENTI, JR.
and NICOLE PRUVEADENTI, IN
HER CAPACITY AS DEVISEE
OF THE ESTATE OF FRANK D.

PRUVEADENTI, JR.

Amount Due: \$96,425.27

JAMES PRUVEADENTI, IN HIS
CAPACITY AS EXECUTOR AND
DEVISEE OF THE ESTATE OF
FRANK D. PRUVEADENTI, JR.
and NICOLE PRUVEADENTI, IN
HER CAPACITY AS DEVISEE
OF THE ESTATE OF FRANK D.
PRUVEADENTI, JR., owner(s) of
property situated in the TOWNSHIP
OF MILLCREEK, Erie County,
Pennsylvania being 2557 SOUTH
TRACY DRIVE, ERIE, PA 16505-
4413

Dimensions: 70 x 100

Acreage: 0.1805

Assessment Map number:
33015046003300

Assessed Value: \$111,780.00

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

Jul. 27 and Aug. 3, 10

SALE NO. 18

Ex. #10576 of 2012

**SUNTRUST MORTGAGE, INC.,
Plaintiff**

v.

**DEBBIE A. STRANGE
Defendant(s)**

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 10576-12

SUNTRUST MORTGAGE, INC.
vs. DEBBIE A. STRANGE

Amount Due: \$60,375.35

DEBBIE A. STRANGE, owner(s)
of property situated in the CITY OF
ERIE, Erie County, Pennsylvania
being 608 BROWN AVENUE,
ERIE, PA 16502-2529

Dimensions: 35 X 97.25

Acreage .0781

Assessment Map number:
19060016012100

Assessed Value: \$54,470

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

Jul. 27 and Aug. 3, 10

SALE NO. 19
Ex. #11291 of 2011

CITIMORTGAGE, INC.,
Plaintiff

v.

JAMES B. TAYLOR, SR,
Defendant(s)

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 11291-11

CITIMORTGAGE, INC. vs.
JAMES B. TAYLOR, SR

Amount Due: \$115,971.04

JAMES B. TAYLOR, SR,
owner(s) of property situated in the
TOWNSHIP OF CONCORD, Erie
County, Pennsylvania being 21584
SPARTANSBURG HIGHWAY,
CORRY, PA 16407-9646

Acreage 2.0000

Assessment Map number:
03-020-037.0-014.00

Assessed Value: \$46,550

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

Jul. 27 and Aug. 3, 10

SALE NO. 20

Ex. #14252 of 2011

AURORA BANK FSB, Plaintiff

v.

CATHERINE H. TURNER,
Defendant(s)

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 14252-11

AURORA BANK FSB vs.
CATHERINE H. TURNER

Amount Due: \$25,734.66

CATHERINE H. TURNER
owner(s) of property situated in
CITY OF ERIE, Erie County,
Pennsylvania being 2505
CHESTNUT STREET, ERIE, PA
16502-2660

Dimensions: 40 ¾ X 80

Acreage: 0.0748

Assessment Map number:
19060012011800

Assessed Value: \$52,300

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

Jul. 27 and Aug. 3, 10

SALE NO. 21

Ex. #14274 of 2009

BANK OF AMERICA, N.A.
SUCCESSOR BY MERGER
TO BAC HOME LOANS
SERVICING, LP, Plaintiff

v.

JEREMY J.H. WEINBERG,
Defendant(s)

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 14274-09

BANK OF AMERICA, N.A.
SUCCESSOR BY MERGER TO
BAC HOME LOANS SERVICING,
LP vs. JEREMY J.H. WEINBERG
Amount Due: \$68,073.00

JEREMY J.H. WEINBERG,
owner(s) of property situated in
CITY OF ERIE, Erie County,
Pennsylvania being 2943 POPLAR
STREET, ERIE, PA 16508-1679

Dimensions: 38x125.67

Acreage: 0.1096

Assessment Map number:
19-060-044.0-339.00

Assessed Value: \$56,830

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

Jul. 27 and Aug. 3, 10

SALE NO. 23

Ex. #10940 of 2012

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

v.

JASON E. RADEL, Defendants
SHERIFF'S SALE

By virtue of a Writ of Execution No.
10940-12

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

v.

JASON E. RADEL, Defendants

Real Estate: 1206 ASH STREET,
LAKE CITY, PA 16423

Municipality: Borough of Lake
City, Erie County, Pennsylvania
Plan: Resubdivision of Park Shores
Subdivision Lot No. 51, Map No.
1992, Page 252

See Deed Book 1230, Page 155

Tax I.D. (28) 5-6-4-7

Assessment: \$15,800. (Land)
\$55,170. (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

Jul. 27 and Aug. 3, 10

SALE NO. 25

Ex. #12154 of 2010

PNC MORTGAGE, A DIVISION
OF PNC BANK, NATIONAL
ASSOCIATION SUCCESSOR
BY MERGER TO NATIONAL
CITY REAL ESTATE
SERVICES LLC SUCCESSOR
BY MERGER TO NATIONAL
CITY MORTGAGE, INC FKA
NATIONAL CITY MORTGAGE
CO, Plaintiff,

v.

KENNETH L. FISHER, JR.,
Defendant

SHERIFF'S SALE

By virtue of a Writ of Execution
filed to No. 12151-10, PNC
Mortgage, et al, vs. Kenneth L.
Fisher, Jr., owner(s) of property
situated in City of Erie, Erie County,
Pennsylvania being 1512 West 24th
Street, Erie, PA 16502.

Dimensions: 0.1364

Assessment Map Number:
(19) 6247-131

Assess Value figure: \$70,900.00

Improvement thereon: Dwelling
Louis P. Vitti, Esquire
Attorney for Plaintiff
215 4th Avenue
Pittsburgh, PA 15222
(412) 281-1725

Jul. 27 and Aug. 3, 10

SALE NO. 26

Ex. #11283 of 2012

U.S. BANK NATIONAL
ASSOCIATION (TRUSTEE

**FOR THE PENNSYLVANIA
HOUSING FINANCE AGENCY,
PURSUANT TO A TRUST
INDENTURE DATED AS OF
APRIL 1, 1982), Plaintiff,**

v.

**BRENDA R. HOTCHKISS,
Defendant**

SHERIFFS SALE

By virtue of a Writ of Execution filed to No. 11283-2012, U.S. Bank, et al vs. Brenda R. Hotchkiss, owner(s) of property situated in North East, Erie County, Pennsylvania being 10805 (115) Clinton Street, North East, PA 16428.

Dimensions: 1288 Sq. Ft. / 0.2792 acres

Assessment Map Number: (37) 19.71-11.01

Assess Value figure: \$78,810.00

Improvement thereon: Dwelling

Louis P. Vitti, Esquire

Attorney for Plaintiff

215 4th Avenue

Pittsburgh, PA 15222

(412) 281-1725

Jul. 27 and Aug. 3, 10

SALE NO. 27

Ex. #10941 of 2012

**THE BANK OF NEW
YORK MELLON FKA THE
BANK OF NEW YORK,
AS TRUSTEE FOR THE
CERTIFICATEHOLDERS OF
CWABS, INC., ASSET-BACKED
CERTIFICATES, SERIES**

2007-4, Plaintiff

v.

**BOBBIELYN DIBBLE,
Defendant(s)**

DESCRIPTION

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

Beginning at a point in the West line of Sigsbee Street, Four Hundred and Ninety (490') feet and Three (3") inches South of the intersection of the West line of Sigsbee Street with the South line of West Twenty-Sixth Street; thence Westwardly parallel with West Twenty-Sixth Street, One Hundred Fifty (150') feet; thence Southwardly parallel with Sigsbee Street, Thirty-Two (32') feet and Nine (9') inches; thence eastwardly

parallel with West Twenty-Sixth Street, One Hundred Fifty (150') feet to the West line of Sigsbee Street; thence Northwardly along the West line of Sigsbee Street, Thirty-Two (32') feet and Nine (9") inches to the place of beginning, and being part of Lot No. 15 and part of Lot No. 16 in Block 1 of the Glenwood Park Land Company's Plot as recorded in the Office of the Recorder of Deeds for Erie County, in Map Book No. I, Page 329, together with all improvements thereon.

PARCEL# (19) 60459-109

PROPERTY ADDRESS: 2650

Sigsbee Street, Erie, PA 16508

KML Law Group, P.C.

Attorney for Plaintiff

Suite 5000 - BNY Independence

Center, 701 Market Street

Philadelphia, PA 19106

(215) 627-1322

Jul. 27 and Aug. 3, 10

SALE NO. 28

Ex. #12031 of 2009

**WELLS FARGO BANK, N.A.
AS TRUSTEE FOR OPTION
ONE MORTGAGE LOAN
TRUST 2006-1 ASSET-BACKED
CERTIFICATES, SERIES**

2006-1, Plaintiff

v.

**DEBBIE FENDONE
JOSEPH FENDONE,
Defendant(s)**

DESCRIPTION

ALL THAT CERTAIN place or parcel of land situate in the Township of Washington, County of Erie, and State of Pennsylvania, and known as Lot Number Twenty (20) of Angling Acres Subdivision, Section No. 1 being parts of Tracts 446 and 447, a plait of which is recorded in Erie County, Pennsylvania, in Map Book 7 at page 114, to which reference is made for a further description thereof.

PROPERTY ADDRESS: 12230

Skyview Drive, Edinboro, PA 16412

KML Law Group, P.C.

Attorney for Plaintiff

Suite 5000 - BNY Independence

Center, 701 Market Street

Philadelphia, PA 19106

(215) 627-1322

Jul. 27 and Aug. 3, 10

SALE NO. 29

Ex. #11085 of 2012

**GREEN TREE CONSUMER
DISCOUNT COMPANY,**

Plaintiff

v.

**KATHLEEN J. JURY,
Defendant(s)**

DESCRIPTION

ALL that certain piece or parcel of land situate in the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania being Lot Number 21, Block L, in Evans Estates, Subdivision Number 3, of part of Reserve Tracts Numbers 17 and 18, as the same is shown on a map of said Subdivision, recorded in the office of the Recorder of Deeds in and for said County of Erie, Pennsylvania in Map Book Number 5, pages 287 and 288 to which reference is made for a further description of said property.

PROPERTY ADDRESS: 3209 West 22nd Street, Erie, PA 16506

KML Law Group, P.C.

Attorney for Plaintiff

Suite 5000 - BNY Independence

Center, 701 Market Street

Philadelphia, PA 19106

(215) 627-1322

Jul. 27 and Aug. 3, 10

SALE NO. 31

Ex. #14480 of 2011

**Wells Fargo Bank, N.A.,
successor by merger to Wells
Fargo Home Mortgage, Inc.**

v.

**TODD J. BARNETT
SHERIFF'S SALE**

By virtue of a Writ of Execution file to No. 14480-11 Wells Fargo Bank, N.A., successor by merger to Wells Fargo Home Mortgage, Inc., vs. TODD J. BARNETT; owner(s) of property situated in the Township of Venango, County of Erie, Pennsylvania being 9641 Haskell Hill Road a/k/a 9641 Haskell Hill Road, Wattsburg, PA 16442

1.7500 acre

Assessment Map Number: 44021034000200

Assessed Value figure: \$85,450.00

Improvement thereon: Single Family Dwelling

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

Jul. 27 and Aug. 3, 10

SALE NO. 32

Ex. #14369 of 2011

HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2006-1

v.

**ALICE A. HUFF
SHERIFF'S SALE**

By virtue of a Writ of Execution file to No. 14369-11 HSBC Bank USA, National Association, as Trustee for Wells Fargo Asset Securities Corporation Home Equity Asset-Backed Certificates, Series 2006-1, vs. ALICE A. HUFF; owner(s) of property situated in the City of Erie, County of Erie, Pennsylvania being 1020 East 24th Street, Erie, PA 16503
 43.34 X 135 0.1333 acre
 Assessment Map Number: 18050041012100
 Assessed Value figure: 39,960.00
 Improvement thereon: Single Family Dwelling
 Scott A. Dietterick, Esquire
 Kimberly A. Bonner, Esquire
 Joel Ackerman, Esquire
 Ashleigh L. Marin, Esquire
 Ralph M. Salvia, Esquire
 Jaime R. Ackerman, Esquire
 Zucker, Goldberg & Ackerman, LLC
 200 Sheffield Street, Suite 101
 Mountainside, NJ 07092
 (908) 233-8500

Jul. 27 and Aug. 3, 10

SALE NO. 33

Ex. #12943 of 2011

Wells Fargo Bank, N.A.

v.

**Mary Lou Richards;
 Thomas E. Richards (Deceased)
SHERIFF'S SALE**

By virtue of a Writ of Execution file to No. 2011-12943 Wells Fargo Bank, N.A. vs. Mary Lou Richards; Thomas E. Richards (Deceased); owner(s) of property situated in the Township of Conneaut, County of Erie, Pennsylvania being 10813 Whittaker Road, Albion, PA 16401;
 10-19.99 Acres
 Assessment Map Number: 04-029-060.0-001.11
 Assessed Value figure: 69,330.00
 Improvement thereon: Single Family Dwelling
 Scott A. Dietterick, Esquire
 Kimberly A. Bonner, Esquire
 Joel Ackerman, Esquire
 Ashleigh L. Marin, Esquire
 Ralph M. Salvia, Esquire
 Jaime R. Ackerman, Esquire
 Zucker, Goldberg & Ackerman, LLC
 200 Sheffield Street, Suite 101
 Mountainside, NJ 07092
 (908) 233-8500

Jul. 27 and Aug. 3, 10

SALE NO. 34

Ex. #14559 of 2011

Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc.

v.

**Sean M. Richardson a/k/a
 Sean Michael Richardson;
 Lori F. Richardson
SHERIFF'S SALE**

By virtue of a Writ of Execution file to No. 2011-14559 Wells Fargo Bank, N.A. successor by merger to Wells Fargo Home Mortgage, Inc. vs. Sean M. Richardson a/k/a Sean Michael Richardson; Lori F. Richardson; owner(s) of property situated in the City of Erie, County of Erie, Pennsylvania being 206 Barker Street, Girard, PA 16417-1202
 0.6078 ACRE
 Assessment Map Number: 23004039000200
 Assessed Value figure: \$88,080.00
 Improvement thereon: Single Family Dwelling
 Scott A. Dietterick, Esquire
 Kimberly A. Bonner, Esquire
 Joel Ackerman, Esquire
 Ashleigh L. Marin, Esquire
 Ralph M. Salvia, Esquire
 Jaime R. Ackerman, Esquire

Zucker, Goldberg & Ackerman, LLC
 200 Sheffield Street, Suite 101
 Mountainside, NJ 07092
 (908) 233-8500

Jul. 27 and Aug. 3, 10

SALE NO. 36

Ex. #15408 of 2010

Beneficial Consumer Discount Company D/B/A Beneficial Mortgage Co of Pennsylvania, Plaintiff

v.

**George P. Ross and
 Roxana M. Ross, Defendant
SHORT DESCRIPTION**

By virtue of a Writ of Execution filed to No. 15408-10 Beneficial Consumer Discount Company D/B/A Beneficial Mortgage Co of Pennsylvania v. George P. Ross and Roxana M. Ross, owners of property situated in the City of Corry, Erie County, Pennsylvania being 35 Elk Street, Corry, Pennsylvania 16407.
 Tax I.D. No. 07-014-036.0-029.00
 Assessment: \$95,922.66
 McCabe, Weisberg and Conway, P.C.
 123 South Broad Street, Suite 2080
 Philadelphia, PA 19109

Jul. 27 and Aug. 3, 10

SALE NO. 37

Ex. #10907 of 2012

Bank of America, N.A., Plaintiff

v.

**Richard W. Winslow, Defendant
SHORT DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2012-10907 Bank of America, N.A. v. Richard W. Winslow, owners of property situated in the Township of Millcreek, Erie County, Pennsylvania being 5098 Shechinah Drive, Edinboro, Pennsylvania 16412.
 Tax I.D. No. 11-014-0411.0-021.04
 Assessment: \$309,395.76
 McCabe, Weisberg and Conway, P.C.
 123 South Broad Street, Suite 2080
 Philadelphia, PA 19109

Jul. 27 and Aug. 3, 10



Raymond J. Sammartino, MAI, SRA
Robert G. Stout, MAI



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E-mail:

Raymond J. Sammartino, MAI, SRA rsam@sas-rea.com
 Robert Stout, Jr., MAI rstout@sas-rea.com

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Dennis Lagan	Gerald Nichols	Benjamin Suchocki	Jennifer Mazur
27 Years- PSP	30 Years - FBI	30 Years - FBI/IRS	Investigator

NORTHWEST PENNSYLVANIA'S PREMIER INVESTIGATIVE TEAM

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, July 30, 2012** and confirmed Nisi.

August 23, 2012 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>2012</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
161.	Henry Orth Hirt	Susan Hirt Hagen, Elizabeth A. Vorsheck and Sentinel Trust Co., L.B.A., Co-Trustees	Margaret E.W. Sager, Esq.
162.	Henry Orth Hirt	Susan Hirt Hagen, Elizabeth A. Vorsheck and Sentinel Trust Co., L.B.A., Co-Trustees	Margaret E.W. Sager, Esq.
163.	Henry Orth Hirt	Susan Hirt Hagen, Elizabeth A. Vorsheck and Sentinel Trust Co., L.B.A., Co-Trustees	Margaret E.W. Sager, Esq.

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

Jul. 20, 27

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

ARCHER, EDITH K. PIERCE, a/k/a EDITH P. ARCHER, a/k/a EDITH K. PIERCE, deceased

Late of North East, PA
Executor: James L. Beers, 29605 U.S. Highway 19 North, Clearwater, FL 33761
Attorney: R. Michael Daniel, Cohen & Grigsby, P.C., 625 Liberty Avenue, Pittsburgh, PA 15222-3152

BUSECK, DONALD C., deceased

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania
Co-Executors: Frances Q. Buseck, Kurt F. Buseck & Mark S. Buseck, MD, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506
Attorney: I. John Dunn, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

EAST, ROBERT T., JR., deceased

Late of the Township of Lawrence Park, County of Erie and Commonwealth of Pennsylvania
Executor: Judith A. Reiter, c/o 227 West 5th Street, Erie, PA 16507
Attorney: Mark O. Prenatt, Esquire, 227 West 5th Street, Erie, Pennsylvania 16507

EVANS, SUSAN M., deceased

Late of the Township of Fairview
Executor: Charles E. Evans, 599 Hardscrabble Boulevard, Erie, PA 16505
Attorney: Michael A. Fetzner, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

JONES, ELEANOR S., a/k/a ELEANOR JONES, a/k/a ELEANOR SCHUETZ JONES, deceased

Late of the Township of Millcreek, County of Erie, State of Pennsylvania
Executrix: Vera L. Bowen, 5735 California Road, McKean, Pennsylvania 16426
Attorney: James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, Pennsylvania 16417

KUHN, RAYMOND WILLIAM, a/k/a RAYMOND W. KUHN, deceased

Late of Millcreek Township
Executor: Kenny R. Kuhn, 1622 Wilkins Rd., Erie, PA 16505
Attorney: None

KURTY, TERESA MAE, deceased

Late of the City of Erie, Erie County, Pennsylvania
Executor: Carol Rodgers, c/o McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507
Attorney: Joseph P. Martone, Esquire, McCarthy, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

MOHNKERN, BETTY M., deceased

Late of Lawrence Park Township, County of Erie and Commonwealth of Pennsylvania
Co-Executrices: Barbara Jean Medwid and Carol Ann Billig
Attorney: Thomas J. Minarcik, Esquire, Elderkin Law Firm, 150 East 8th Street, Erie, PA 16501

PEPICELLO, ESSIE J., deceased

Late of the Township of Harborcreek, Erie County, Pennsylvania
Executor: Dean S. Pepicello, c/o Robert C. Ward, Esquire, 307 French Street, Erie, PA 16507
Attorney: Robert C. Ward, Esquire, 307 French Street, Erie, PA 16507

RZODKIEWICZ, DOROTHY M., deceased

Late of Lawrence Park Township
Executrix: Ann M. Badach, c/o 332 East 6th Street, Erie, PA 16507-1610
Attorney: Evan E. Adair, Esq., Williams and Adair, 332 East 6th Street, Erie, PA 16507-1610

SANFORD, CHARLES T., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administratrix c.t.a.: Aimee Murphy, 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

SEABERG, RUTH M., deceased

Late of Millcreek Township
Administrators: Anna T. Seaberg and Richard Seaberg, 1735 West 25th Street, Erie, PA 16502
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

SECOND PUBLICATION

**BARCZAK, JESSIE A.,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Administratrix: Margaret J. Barczak, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

Attorney: Valerie Kuntz, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**BOROWICZ, LEO F.,
deceased**

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

Executor: David L. Borowicz, c/o Yochim, Skiba & Nash, 345 West 6th Street, Erie, PA 16507

Attorney: Gary V. Skiba, Esquire, Yochim, Skiba & Nash, 345 West 6th Street, Erie, PA 16507

**ERVIN, PETER B.,
deceased**

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

Executrix: Emily Trejchel, c/o 3305 Pittsburgh Avenue, Erie, Pennsylvania 16508

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

**HENDERSON, DORIS J.,
deceased**

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

Executrix: DoraLee Miller, 249 S. 2nd Avenue, Clarion, PA 16214
Attorney: None

**JOHNSON, SHEILA JOETTE,
deceased**

Late of Lake City Boro, County of Erie and Commonwealth of Pennsylvania

Administrator: Gerald E. Johnson, c/o 504 State Street, 3rd Floor, Erie, PA 16501

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

**POUNDS, RAYMOND R.,
deceased**

Late of the Township of West Springfield, County of Erie and Commonwealth of Pennsylvania
Co-Administrators c.t.a.: Sandra D. Erven and Kevin L. Pounds

Attorney: James H. Richardson, Jr., Esquire, Elderkin, Law Firm, 150 East 8th Street, Erie, PA 16501

**THOMPSON, SHARON Y.,
deceased**

Late of Waterford Borough, County of Erie, and Commonwealth of Pennsylvania

Co-Executors: Patricia Stahl, 1513 Glades Pike, Somerset, PA 15501 and Mr. Lori Chylinski, 1445 West Tenth Street, Apt. 2, Erie, PA 16502

Attorney: Timothy C. Leventry, Esquire, Leventry, Haschak, & Rodkey, LLC, 1397 Eisenhower Boulevard, Richland Square III, Suite 202, Johnstown, Pennsylvania 15904

**WEIGAND, DOROTHY J.,
deceased**

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

Executrix: Linda A. Ciotti, c/o 150 West Fifth St., Erie, PA 16507

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

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

**BRADY, MARY P.,
deceased**

Late of the City of Corry, Erie County, Pennsylvania

Trustee: Thomas J. Brady, 14250 Bemis Road, Corry, PA 16407

Trustee's Attorney: Paul J. Carney, Jr., Esq., Carney and Ruth Law Office, 224 Maple Avenue, Corry, PA 16407

THIRD PUBLICATION

**DAHLE, WINOLA E.,
deceased**

Late of the City of Erie

Executor: Jack M. Gornall, 17 Niagara Pier, Erie, PA 16507

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

**DeWOLF, ELMER L.,
deceased**

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

Executrix: Cathleen Reichart, c/o 504 State Street, Suite 200, Erie, PA 16501

Attorney: Richard E. Filippi, Esquire, 504 State Street, Suite 200, Erie, PA 16501

**PETERS, PAUL J., a/k/a
PJ PETERS, a/k/a
PAUL JOSEPH PETERS,
deceased**

Late of Springfield Township,
Erie County, PA

Administratrix: Sandra M. Peters,
c/o 900 State Street, Suite 215,
Erie, PA 16501

Attorney: Mary Alfieri Richmond,
Esquire, 900 State Street, Suite
215, Erie, PA 16501

**SHANER, DONALD W., SR.,
deceased**

Late of the Township of
Millcreek, County of Erie,
Commonwealth of Pennsylvania
Administrators: Donald W.
Shaner, Jr., 1515 Pasadena Drive,
Erie, PA 16505-2726; Matthew J.
Shaner, 3205 Orange Blossom
Lane, Knoxville, TN 37931-
2181; Sally E. McAfee, 4032
Marcia Lane, Erie, PA 16506-
4005

Attorneys: MacDonald, Illig,
Jones & Britton LLP, 100
State Street, Suite 700, Erie,
Pennsylvania 16507-1459

**STUBENHOFER, WILLIAM E.,
deceased**

Late of Harborcreek Township
Executor: Norman Craft, c/o
Attorney Terrence P. Cavanaugh,
3336 Buffalo Road, Wesleyville,
PA 16510

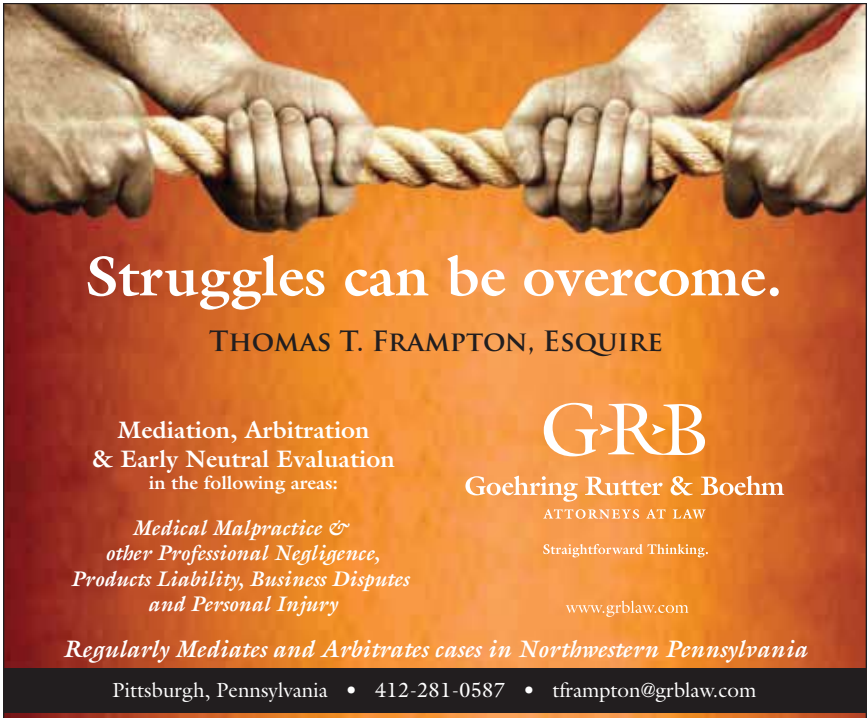
Attorney: Terrence P. Cavanaugh,
Esq., 3336 Buffalo Road,
Wesleyville, PA 16510

**ZIEGLER, ELIZABETH E.,
deceased**

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

Executrix: Kathleen Kester,
1525 Fieldcrest Drive, Erie,
Pennsylvania 16505

Attorneys: MacDonald, Illig,
Jones & Britton LLP, 100
State Street, Suite 700, Erie,
Pennsylvania 16507-1459



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CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

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