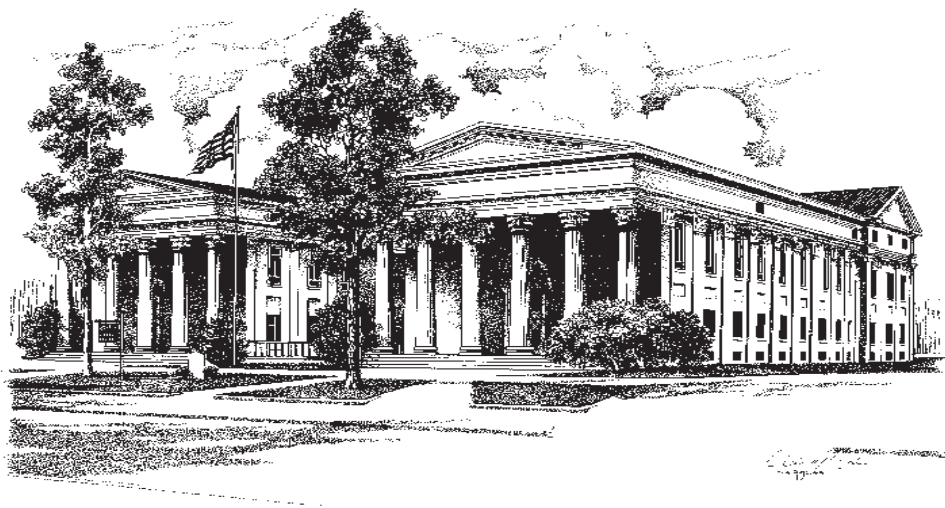


# Erie County Legal Journal

Vol. 98 No. 43

October 23, 2015



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98 ERIE 82 - 87

**O'Donnell, et al. v. Millcreek Township Zoning Hearing Board and  
Township of Millcreek**

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*Reprinted with revisions from the Court*

# Erie County Legal Journal

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

Managing Editor: Heidi M. Weismiller

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

All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. The Erie County Bar Association will not assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes in content.

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ERIE COUNTY LEGAL JOURNAL (ISSN 0730-6393) is published every Friday for \$57 per year (\$1.50 single issues/\$5.00 special issues, i.e. Seated Tax Sales). Owned and published by the Erie County Bar Association (Copyright 2015©) 302 West 9th St., Erie, PA 16502 (814/459-3111). POSTMASTER: Send Address changes to THE ERIE COUNTY LEGAL JOURNAL, 302 West 9th St., Erie, PA 16502-1427.

# Erie County Bar Association Calendar of Events and Seminars

## SATURDAY, OCTOBER 24, 2015

Young Lawyers Division Event  
Erie & Crawford County Young Lawyers  
at the Voodoo Brewery  
12:00 p.m. - 2:00 p.m.

## WEDNESDAY, OCTOBER 28, 2015

ECBA Live Lunch-n-Learn Seminar  
*Current Issues in Sentencing*  
12:15 p.m. - 2:15 p.m. (registration/lunch - 11:45 a.m.)  
\$90 (ECBA member/non-attorney staff)  
\$116 (nonmember)  
\$60 (member judge not needing CLE)  
2 hours substantive

### *followed by*

*Applied Forensic Science for Litigators*  
2:30 p.m. - 4:30 p.m.  
\$90 (ECBA member/non-attorney staff)  
\$116 (nonmember)  
\$60 (member judge not needing CLE)  
2 hours substantive

### ATTEND BOTH SEMINARS AT A REDUCED PRICE!

\$129 (ECBA member/non-attorney staff)  
\$167 (nonmember)  
\$86 (member judge not needing CLE)

## FRIDAY, NOVEMBER 6, 2015

Annual Admission Ceremonies  
Court of Common Pleas - 11:00 a.m. - Courtroom H  
Federal - 1:00 p.m.

## TUESDAY, NOVEMBER 17, 2015

ECBA Live Lunch-n-Learn Seminar  
*The Hiring and Firing of Employees: Best Practices for  
the Solo/Small Firm Practitioner*  
12:15 p.m. - 1:45 p.m. (registration/lunch - 11:45 a.m.)  
\$67 (ECBA member/non-attorney staff)  
\$87 (nonmember)  
\$47 (member judge not needing CLE)  
1.5 hours substantive

To view PBI seminars visit the events calendar on the ECBA website  
<http://www.eriebar.com/public-calendar>



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**LEE O'DONNELL, PAUL ELLINGTON and MARCY ELLINGTON, Appellants**  
**v.**  
**MILLCREEK TOWNSHIP ZONING HEARING BOARD, Appellee**  
**TOWNSHIP OF MILLCREEK, Intervenor**

*Editor's Note: Reprinted with revisions from the Court.*

*STATUTORY INTERPRETATION*

A statute should be construed, if possible, to give effect to all its provisions, and the intention of its drafters, which can be determined based on “the object to be attained” or “the consequences of a particular interpretation.”. See 1 P.C.S.A. §1921(a)(b).

*STATUTORY INTERPRETATION*

Statutory words should not be interpreted in isolation, rather with reference to the context in which they appear.

*STATUTORY INTERPRETATION*

Common sense and practicality should be considered when interpreting a statute, both in construing the intent of the drafters and in the outcome of the specific interpretation.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CIVIL DIVISION                      NO. 10062 OF 2015

Appearances:     L.C. TeWinkle, Esq. for the Appellants  
                         Richard Perhaps, Esq. for Millcreek Township Zoning Hearing Board  
                         Evan Adair, Esq. for Township of Millcreek

**OPINION**

Cunningham, William R., J.

The presenting matter is a land use appeal challenging Appellee’s denial of a building permit to the Appellants. For the following reasons, the appeal is **GRANTED**.

**BACKGROUND**

Appellants own Lot 10 of the Baer Beach Subdivision, a duly approved subdivision recorded in Erie County Map Book 8, page 110. The subdivision plots two rows of residential lots on each side of a road known as Lake Front Drive. The common address for Appellants’ property is 3272 Lake Front Road, Erie, Pennsylvania (“subject property”).

The subject property is located in the Lake Front Overlay District which is governed by Millcreek Township Zoning Ordinance §5.06.1 (“the Ordinance”). The Ordinance provides:

- 5.06.1** The Lakefront Overlay District, generally, shall encompass lands in Millcreek Township along the shore of Lake Erie and extending inward (as its width) a distance of 250 feet.
- 5.06.2** Maximum height of a front row dwelling shall not exceed twenty feet (20’).
- 5.06.3** In each additional row of dwellings, the maximum allowed height may be increased by five feet (5’), to a maximum height of thirty-five feet (35’) in developments having four or more rows of dwellings.

**5.06.4 In the case of a single row of dwellings**, the maximum height shall not exceed thirty-five feet (35'). For there to be a single row of dwellings, there shall be no dwellings within 200 feet measured from the back of the dwelling landward. Millcreek Township Zoning Ordinance §5.06.1 (*Emphasis Added*).

Appellants were denied a building permit by Millcreek Township to renovate the subject property to a height of thirty feet. Appellants appealed to Appellee seeking the issuance of a building permit because their property is in a “single row of dwellings” allowing for a height of up to thirty-five feet. Alternatively, Appellants sought a variance of the height requirements. The appeal was denied on December 10, 2014 and an Opinion was issued by Appellee on December 29, 2014.

In its Opinion, Appellee found the subject property was not in a single row of houses pursuant to Section 506.4 because there was a home within a 200 feet arc east of the subject property. Hence, Appellee found the applicable height requirement was twenty feet pursuant to Section 506.2. Appellee also found there was no basis to grant a variance from the height requirement.

This appeal followed.

### **STANDARD OF REVIEW**

When a court does not take additional evidence into consideration, its review of a zoning hearing board decision is limited to a determination of whether the board abused its discretion or committed an error of law. *Zoning Hearing Bd. of Sadsbury Twp. v. Bd. of Sup'rs of Sadsbury Twp.*, 804 A.2d 1274, 1278 (Pa. Commw. Ct. 2002). A zoning hearing board has abused its discretion only if its findings are not supported by substantial evidence, meaning evidence a reasonable mind might accept as adequate to support a conclusion. *Rittenhouse Row v. Aspite*, 917 A.2d 880 (Pa. Commw. Ct. 2006). A court may not substitute its own judgement for that of the authorities who enacted the legislation and must defer to the board’s decision regarding determinations on credibility and the weight to give evidence as long as there is substantial evidence to support it. *Sadsbury Twp.*, 804 A.2d at 1278.

### **ISSUES ON APPEAL**

Appellants raise two issues on appeal. Appellants first claim the term “landward” within Section 506.4 was wrongfully interpreted by the Zoning Board. Appellants argue landward must be measured perpendicular to the water, or directly behind the subject property. Since there are no dwellings within 200 feet behind the subject property, Appellants contend it is part of a single row of dwellings and thus the limit on its height is thirty-five feet.

Assuming *arguendo* Section 506.4 was correctly interpreted, Appellants assert a variance should be granted allowing Appellants to undertake the proposed renovations. Appellants argue the topography of the property and the township’s drainage ditch create flooding issues which requires a variance.

Appellee’s interpretation of Section 506.4 was an abuse of discretion and an error of law. Given the substantial evidence the subject property is part of a single row of houses, coupled with the arbitrary interpretation of the term landward, Appellants request for a building permit is warranted. The issue of a variance is moot.

## A. INTERPRETATION OF THE ORDINANCE

A statute should be construed, if possible, to give effect to all its provisions, and the intention of its drafters. See 1 P.C.S.A. §1921(a). When the words of a statute are not explicit, the intent can be determined based on, *inter alia*, “the object to be attained” or “the consequences of a particular interpretation.” 1 P.C.S.A. §1921(b). Statutory words should not be interpreted in isolation, rather with reference to the context in which they appear. *O'Rourke v. Commonwealth*, 778 A.2d 1194, 1201 (2001). Perhaps most importantly, common sense and practicality must be utilized in interpreting a statute. *Commonwealth v. Trippett*, 932 A.2d 188, 194 (Pa. Super. 2007); *Capital Acad. Charter Sch. v. Harrisburg Sch. Dist.*, 934 A.2d 189, 193 (Pa. Commw. Ct. 2007). These rules of construction apply equally to municipal ordinances.

In the case at bar, common sense, practicality and the evidentiary record do not support Appellee's definition of a “single row of dwellings” in Section 506.4. A consequence of Appellee's particular interpretation of “landward” is that the object of the Ordinance was not applicable and/or served.

As drafted, Section 506.4 causes more problems than it solves. Section 506.4 attempts to define a “single row of houses” by limitation stating “there shall be no dwellings within 200 feet measured from the back of the dwelling landward.” The crux of the problem facing Appellee was the use of the word landward by the drafters.

Landward is undefined in the Ordinance. The use of landward for directional purposes is nonsensical since all of the properties in question are already on land. Into this void the Appellee, apparently in a matter of first impression, defines landward to be an arc of 200 feet extending east and west of the subject property. There is nothing in the record to explain or justify Appellee's expansive interpretation of landward to deny Appellants building permit.

In its ordinary, common usage landward means toward land in a direct line. It is generally used when determining a direction from a body of water toward land, not when describing a direction while already on land as in the instant matter. It is difficult to envision a usage of landward when the parties are already on land. Applied to this case, landward can only mean to go inland, away from the body of water. As such, landward means moving in a perpendicular line directly behind the subject property.

Appellee proffers no historical use of the word landward that describes it as an arc, let alone an arc of 200 feet in an east or west direction. If the drafters of the Ordinance intended there to be an arc, this three letter word could have been utilized. Appellee's interpretation is also based on arbitrary terms which should have been decided before Appellants paid for a building permit and the costs associated with the appeal process.

Among the arbitrary decisions made by Appellee was the point of origin for the measurement of 200 feet. Section 506.4 does not identify what part of the back of the dwelling to measure. Further, it does not state whether it is the current dwelling or a proposed dwelling. After all, it is possible that a proposed dwelling may be closer to or farther from existing dwellings in the second row.

Nor does Section 506.4 establish the end point of the 200 feet measurement. Logically the end point would be the nearest point of the rear dwelling. Left unanswered is what part of the rear dwelling constitutes the nearest point. There are several possibilities including whether it is an enclosed or unenclosed part of the rear dwelling.

Appellee uses its arc interpretation of landward to determine there is a dwelling within 200 feet of the subject property, namely the property owned by Gerald and Shirley Brookhauser at 3263 Lake Front Drive (hereafter "Brookhausers"). It is unclear from the record how Appellee determined the distance between the subject property and the Brookhausers as there are several distances referenced.

After some confusion, Appellee's solicitor ultimately directed the measurement be taken from the closest point of the proposed building to the closest point of the Brookhauser structure. *Hearing Record* ("*H.R.*") pp. 70-71. This directive seems vague and perhaps explains why there were varying results.

Appellee's Brief describes the distance as 50 feet which may be based on the use of a Google map. Doug Prozan, a property owner in the Baer Beach subdivision, originally testified the distance was over 200 feet. *H.R.* p. 9. Appellants later submitted a statement from Mr. Prozan, who walked off the distance as 33 and 1/3 paces or roughly 100 feet. *H.R.* p. 87. This result is over 100 feet less than his testimony and double the Appellee's figure.

These wide discrepancies cannot be explained on the basis of this record nor is the Appellee's method of calculation helpful to future applicants for a building permit. At best these uncertainties render arbitrary Appellee's interpretation of Section 506.4.

Based on the common usage of the word landward, coupled with the arbitrary and confusing application of Appellee's interpretation, Appellee committed an error of law in using its expansive interpretation of landward to deny Appellants' building permit.

## **B. PURPOSE OF THE ORDINANCE**

When seeking a definition of a single row of dwellings, consideration has to be given to the object or purpose of the Ordinance. One of the main purposes of establishing height requirements in the Ordinance is to ensure that homes sitting back from Lake Erie, behind other dwellings, maintain a view of the lake. The Ordinance limits the height of houses that sit on the lake front, lest they block the view of dwellings that sit behind those on lake front lots. This purpose is certainly laudable, but was not applicable to or served by Appellee's denial of Appellants' building permit.

The initial error Appellee and Millcreek Township make is the assumption that because the Baer Beach subdivision as recorded plots two rows of lots, one on each side of Lake Front Drive, there cannot be a single row of houses where the subject property is situate. This assumption ignores the substantial, indeed the overwhelming evidence that all lots west of the Brookhausers and across from the subject property do not have houses and are in fact unbuildable for topographical and/or zoning reasons.

Doug Prozan, a recent board member of the Baer Beach Association, testified all of the lots south of the subject property are owned by Baer Beach Association and are not buildable. *H.R.* p. 9. Kevin Farr, representing professional surveyor David Laird Associates, testified that two of the lots across from the subject property are designated as parking areas "and the other lot that is actually lot 39 has a buffer and setback requirements in your current zoning ordinance that it wouldn't be able to be built upon." *H.R.* p. 6.

One of the Appellants, Lee O'Donnell, testified the lots across from the subject property are not buildable for topographical reasons: "...and there is nobody behind me as you can see there. I mean there was years past, but, you know, the wall, the dirt came down and took



everybody out, so you can't build there anymore." *H.R. p. 10.*

The testimony of these three witnesses is corroborated in part by the picture at *H.R. p. 37.* There is no evidence of any type in this record rebutting these witnesses.

The only possible dwelling within any 200 feet arc of the subject property is the Brookhausers. The hearing record is devoid of any objection by the Brookhausers to Appellants' project. To the contrary, Appellants submitted a letter dated October 30, 2014 from the Brookhausers stating they have no concerns about Appellants' renovations. *H.R. p. 88.*

A review of the pictures submitted by Appellants establish why the Brookhausers have no concerns because in fact Appellants' proposed renovations cannot alter the Brookhausers' western view of the lake. Appellants' immediate neighbors to the east and west have built two story dwellings, with heights of 32 and 35 feet respectively. *H.R. p.10.* These heights already block the Brookhausers' view to the west. In fact, these adjoining properties dwarf the subject property. *See Picture at H.R. p. 56, (comparing the height difference of the three properties).*

Appellant Lee O'Donnell testified the Brookhausers believe they have a "beautiful view" from their patio to the east of their property and are not concerned about the view to the west. The Brookhausers' patio can be seen in the picture at *H.R. p. 64.* Ms. O'Donnell also presented a picture (which is not identified by Exhibit number) to Appellee showing the Brookhausers currently have "absolutely no view" of the lake toward the subject property. *H.R. p. 10.*

Appellants' neighbor to the immediate east, Dr. William Kowalski at 3268 Lake Front Drive, testified that he is "totally" in favor of Appellants' building permit because "it will be an enhancement to the whole area. We see no complication with it." *H.R. p. 8.*

Appellants' neighbor to the immediate west, Robin Scheppner, via letter and through her representative Randall Farabaugh, supports approval of Appellants' building permit.<sup>1</sup> *H.R. p. 11.*

There was no evidence in this record that Appellee's interpretation of the word landward as applied to the facts of this case serves the purpose of the Ordinance. All of the evidence points to one conclusion: Appellants' renovations will not and cannot ever cause any further obstruction to the view of the lake by property owners on the south side of Lake Front Drive, including the Brookhausers.

This case is not about the "happy coincidence" as described in Appellee's Opinion. *H.R. p. 3.* Likewise, this case is not about a race to build wherein a first row owner can be in a single row of homes provided the first row is built before the second row as suggested by Millcreek Township. *Intervenor Brief, p. 4.*

Instead, the analysis of this case has to be on the actual facts. The reality is that there are no dwellings or buildable lots in the second row of the Baer Beach Subdivision whose view of the lake will be adversely affected by Appellants' proposed project.

---

<sup>1</sup> Other nearby neighbors, Carol Perkins and Doug Prozan, testified in favor of Appellants renovations because it will enhance the rebirth of the neighborhood. These considerations, while true, are not relevant to the issues on this appeal.



**CONCLUSION**

In fairness to Appellee, the drafters of Section 506.4 put Appellee in a difficult spot. Nonetheless, Appellee's interpretation of landward is without support or justification in the record and constitutes an error of law and an abuse of discretion. The result reached by Appellee did not satisfy the purpose of the Ordinance because Appellants' proposed renovations cannot alter the lake view of any property owner within a 200 feet arc. There is more than substantial evidence in the record establishing the subject property is located in a single row of dwellings with a height restriction of 35 feet. The question of whether Appellants need a variance is moot.

It is respectfully suggested that Millcreek Township use its legislative authority to amend Section 506.4 to provide lakefront residents with a workable standard of what constitutes a single row of houses so that homeowners can know the rules before applying for a building permit.

**ORDER**

And now, this 29th day of June, 2015, for the reasons set forth in the accompanying Opinion, the appeal is **GRANTED** and provided Appellants otherwise meet all requirements, Millcreek Township shall issue a building permit to Appellants forthwith. Appellants' Motion to Open the Record is **DENIED** as moot.

**BY THE COURT:**

/s/ **WILLIAM R. CUNNINGHAM, JUDGE**

**CERTIFICATE OF AUTHORITY**

NOTICE IS HEREBY GIVEN that a Foreign Registration Statement has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on or about October 9, 2015, for a foreign corporation with a registered address in the state of Pennsylvania as follows:

Infiniti Pharmacy and Infusion Services Inc.  
c/o Corporate Creations Network, Inc.

This corporation is incorporated under the laws of Florida. The address of its principal office under the laws of its jurisdiction in which it is incorporated is 1338 N. Federal Highway, Pompano Beach, FL 33062. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended.

Oct. 23

**CHANGE OF NAME NOTICE**  
IN THE MATTER OF THE CHANGE OF NAME OF LANE CHARLES POLASKI IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA, DOCKET NO. 12956-2015

**NOTICE**

Notice is hereby given that on October 16, 2015, the Petition of Denise J. Burns, on behalf of Lane Charles Polaski was presented to the Court of Common Pleas of Erie County, Pennsylvania, requesting an order authorizing Petitioner to change the name of Lane Charles Polaski to Lane Charles Burns. The Court has fixed November 24, 2015 at 2:30 PM before the Honorable Stephanie Domitrovich, Courtroom G222, of the Erie County Courthouse, Erie, Pennsylvania, as the time and place for hearing on said Petition, when and where all persons interested may appear and show cause, if any, why the prayer of relief of the said Petition should not be granted.

Denise C. Pikelnicki, Esquire  
68 East Main Street  
North East, PA 16428  
(814) 725-1400  
Attorney for Petitioner

Oct. 23

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania  
No. 12902-2015

In re: Lilyann Nicole Steadman, a minor

Notice is hereby given that a Petition has been filed in the above named court by Lauren Laska, requesting an order to change the name of Lilyann Nicole Steadman to Lilyann Nicole Laska.

The Court has fixed the 24th day of November, 2015 at 10:30 a.m. in Courtroom G, Room #222 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 parties may show interest, if any they have, why the prayer of the petitioner should not be granted.

Oct. 23

**CHANGE OF NAME NOTICE**

In the Court of Common Pleas of Erie County, Pennsylvania  
No. 12921-2015

In re: Madeline Brielle Urbietta and Bryson Daniel Urbietta, minor children

Notice is hereby given that a Petition has been filed in the above named court, by Ashley Matuszewski requesting an order to change the names of Madeline Brielle Urbietta and Bryson Daniel Urbietta to Madeline Brielle Hammond and Bryson Daniel Hammond, respectively.

The Court has fixed the 17th day of November, 2015 at 10:00 a.m. in Courtroom G, Room #222 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 parties may show interest, if any they have, why the prayer of the petitioner should not be granted.

Oct. 23

**LEGAL NOTICE**

NOTICE is hereby given pursuant to Section 607(a) of Act. No. 81-1986 that the Erie County Tax Claim Bureau has presented to the Erie County Court of Common Pleas its consolidated return with regard to real estate tax sales for

seated lands and/or mobile homes for unpaid real estate taxes for the years 2013 and prior. This return has been confirmed Nisi by the court on October 13, 2015. Any objections or exceptions to the return may be filed by an owner or lien creditor within 30 days after the court made its confirmation Nisi and if no objections or exceptions are filed the return will be confirmed absolutely.

Steven A. Letzelter  
Director of Erie County  
Tax Claim Bureau  
Erie County Courthouse

Oct. 23



# **Erie County Court of Common Pleas**

*Calendar 2016*

## **2016 TRIAL TERMS**

January	01/11/16	01/22/16
February	02/08/16	02/19/16
March	03/14/16	03/24/16
April	04/04/16	04/15/16
May	05/19/16	05/20/16
June	06/06/16	06/17/16
July	07/11/16	07/22/16
September	09/12/16	09/23/16
October	10/10/16	10/21/16
November	11/07/16	11/18/16

PULL-OUT

## **2016 CIVIL TRIAL TERM CERTIFICATION DATES**

April Term	January 26, 2016
June Term	March 28, 2016
October Term	July 29, 2016
February 2017 Term	November 28, 2016

## **2016 ARRAIGNMENTS**

January 25, 2016	February 22, 2016
March 28, 2016	April 25, 2016
May 23, 2016	June 27, 2016
July 25, 2016	August 29, 2016
September 26, 2016	October 24, 2016
November 28, 2016	December 19, 2016

PULL-OUT

**SHERIFF SALE SCHEDULE**  
**FOR THE YEAR 2016**

**LAST DATE TO FILE**

December 1, 2015  
January 4, 2016  
February 1, 2016  
March 1, 2016  
April 1, 2016  
May 2, 2016  
June 1, 2016  
July 1, 2016  
August 1, 2016  
September 1, 2016  
November 1, 2016

**DATE OF SALE**

February 19, 2016  
March 18, 2016  
April 22, 2016  
May 20, 2016  
June 17, 2016  
July 22, 2016  
August 19, 2016  
September 23, 2016  
October 21, 2016  
November 18, 2016  
January 20, 2017

**NO SALES IN DECEMBER**

PULL-OUT

**FEDERAL COURT CIVIL/CRIMINAL**  
**TRIAL CALENDAR**

January 18, 2016  
March 7, 2016  
May 2, 2016

beginning on:  
August 1, 2016  
October 3, 2016  
November 7, 2016

## **2016 AUDIT CALENDAR**

	<b><u>Last day to file Accounts</u></b>	<b><u>Last day to file Petition for Adjudication</u></b>	<b><u>Last day to file Objections</u></b>
JANUARY	December 09, 2015	December 28, 2015	January 21, 2016
FEBRUARY	January 06, 2016	January 25, 2016	February 18, 2016
MARCH	February 10, 2016	February 29, 2016	March 24, 2016
APRIL	March 09, 016	March 28, 2016	April 21, 2016
MAY	April 06, 2016	April 25, 2016	May 19, 2016
JUNE	May 11, 2016	May 31, 2016	June 23, 2016
JULY	June 08, 2016	June 27, 2016	July 21, 2016
AUGUST	July 06, 2016	July 25, 2016	August 18, 2016
SEPTEMBER	August 10, 2016	August 29, 2016	September 22, 2016
OCTOBER	September 07, 2016	September 26, 2016	October 20, 2016
NOVEMBER	October 12, 2016	October 31, 2016	November 28, 2016
DECEMBER	November 09, 2016	November 28, 2016	December 22, 2016

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- Section 125 and 105 Plans



**AUDIT LIST  
NOTICE BY  
KENNETH J. GAMBLE**

**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 **October 26, 2015** and confirmed Nisi.

**November 19, 2015** 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>2015</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
278.	Wayne C. Dearment .....	Gary H. Nash, Executor .....	Gary H. Nash, Esquire
279.	Robert E. Stull .....	Robert C. Stull, Executor .....	Gary H. Nash, Esquire
280.	Joshua D. Erich .....	David A. Erich, Administrator .....	Thomas G. Wagner, Esquire
281.	Darlene D. Hunt .....	Heidi J. Heintzel, Administratrix .....	Robert E. McBride, Esquire
282.	Marshall Duaine Thompson ....	Sheila Thompson, Executrix .....	Carmen F. Lamancusa, Esquire
283.	Lynn James Murphy .....	V. Lynn Larson, Executrix .....	Darlene M. Vlahos, Esquire

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Oct. 16. 23

**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****BILETNIKOFF, JEFFREY G.,  
deceased**

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

*Executrix:* Janet Marie Palmer, c/o Paul J. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407

*Attorney:* Paul C. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407

**CIRINO, MARY M.,  
deceased**

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

*Executrix:* Rosalie C. Nelson

*Attorney:* Thomas J. Minarcik, Esquire, Elderkin Law Firm, 150 East 8th Street, Erie, PA 16501

**FEATH, DAVID,  
deceased**

Late of McKean Township, Erie County, McKean, Pennsylvania

*Administrator:* Phillip Feath, c/o Robert J. Jeffery, Esq., 33 East Main Street, North East, Pennsylvania 16428

*Attorneys:* Orton & Jeffery, P.C., 33 East Main Street, North East, Pennsylvania 16428

**GATESMAN, THOMAS  
PATRICK, a/k/a THOMAS P.  
GATESMAN, a/k/a THOMAS  
GATESMAN, a/k/a TOM  
GATESMAN,  
deceased**

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

*Administrator:* Christine Carucci, 12280 Skyview Dr., Edinboro, PA 16412

*Attorney:* None

**JACKSON, JOHN MARK, a/k/a  
JOHN M. JACKSON, a/k/a  
JOHN JACKSON,  
deceased**

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

*Executrix:* Gayle M. Jackson, c/o Robert E. McBride, Esquire, 32 West Eighth Street, Suite 600, Erie, Pennsylvania 16501

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

**KERNER, FREDERICK A.,  
deceased**

Late of the Township of Harborcreek

*Executrix:* Jill Call, 6304 Shimer Drive, Lockport, NY 14094

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

**KONKEL, RAYMOND H.,  
deceased**

Late of Erie, County of Erie and Commonwealth of Pennsylvania

*Executor:* Jeffrey D. Konkel  
*Attorney:* David J. Rhodes, Esquire, Elderkin Law Firm, 150 East 8th Street, Erie, PA 16501

**KUPNIEWSKI, LOUIS J.,  
deceased**

Late of the Township of Harborcreek, Erie County, PA  
*Co-Executrices:* Janice M. Chrzanowski and Karen L. Hughes, c/o 120 West 10th Street, Erie, PA 16501

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

**MILLER, JEAN MARIE, a/k/a  
JEAN MARIE SARAH MILLER,  
deceased**

Late of the City of Erie, County of Erie

*Executor:* David R. Miller, 1836 Dee Jay Avenue, Erie, Pennsylvania 16510

*Attorney:* Kari A. Froess, Esquire, Carney & Good, 254 West Sixth Street, Erie, Pennsylvania 16507

**PALERMO, DONALD A., a/k/a  
DONATO A. PALERMO,  
deceased**

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

*Executor:* Michael P. Palermo, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

*Attorney:* Valerie H. Kuntz, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**PERRY, VIOLA B.,  
deceased**

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

*Executor:* Catherine P. Krill, c/o Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507

*Attorney:* Denis W. Krill, Esquire, 309 French Street, Erie, Pennsylvania 16507

**POST, SHIRLEY A.,  
deceased**

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

*Executor:* Kim E. Perry, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

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

**PRENTICE, JOYCE M.,  
deceased**

Late of Millcreek Township, Erie County, Commonwealth of PA

*Executor:* Nancy P. Kirner, c/o Leigh Ann Orton, Esquire, 11 Park Street, North East, PA 16428

*Attorney:* Leigh Ann Orton, Esq., Knox McLaughlin Gornall & Sennett, P.C., 11 Park Street, North East, PA 16428

**SMITH, VERONICA LUISE,  
deceased**

Late of the Borough of Edinboro, County of Erie and State of Pennsylvania

*Executrix:* Sabra K. Miller, c/o David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412

*Attorney:* David R. Devine, Esq., 201 Erie Street, Edinboro, PA 16412

**WURST, ANITA J.,  
deceased**

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

*Executor:* Terry D. Wurst, c/o 227 West 5th Street, Erie, PA 16507

*Attorney:* Mark O. Prenatt, Esquire, 227 West 5th Street, Erie, PA 16507

**SECOND PUBLICATION****BEAM, MARY M.,  
deceased**

Late of Girard Township, County of Erie

*Executor:* Kevin M. Beam, c/o Thomas A. Testi, Esq., 3952 Avonia Road, PO Box 413, Fairview, PA 16415

*Attorney:* Thomas A. Testi, Esq., 3952 Avonia Road, PO Box 413, Fairview, PA 16415

**FUHRER, WILLIAM H.,  
deceased**

Late of Millcreek Township, Erie County, Pennsylvania

*Executrices:* Kristal Chamberlain, 1643 Davis Avenue, Erie, PA 16509 and Joyce McCandless, 11942 Arbuckle Road, Union City, PA 16438

*Attorney:* Gary J. Shapira, Esq., 305 West Sixth Street, Erie, PA 16507

**HOLTZ, RAYMOND R., SR.,  
deceased**

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

*Administrator:* Raymond R. Holtz, Jr., c/o 504 State Street, 3rd Floor, Erie, PA 16501

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

**KLIMEK, STANLEY W.,  
deceased**

Late of the City of Erie, County of Erie

*Executor:* Terry Klimek, 7660 Clark Road, Erie, PA 16510

*Attorney:* John C. Melaragno, Esquire, Melaragno, Placidi, Parini & Veitch, 502 West Seventh Street, Erie, Pennsylvania 16502

**MARSCHKA, HELEN B.,  
deceased**

Late of the Township of Millcreek

*Executrix:* Nancy C. Shaffer, 8669 Crane Road, Cranesville, PA 16410

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

**McGUIRE, MSGR. RICHARD J.,  
deceased**

Late of the City of Erie

*Administrator:* Paige E. Peasley  
*Attorney:* Michael G. Nelson, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, Pennsylvania 16507

**SAMPLE, ELEANOR J.,  
deceased**

Late of the Township of Fairview, Erie County, PA

*Executor:* John N. Sample, c/o 120 West 10th Street, Erie, PA 16501

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

**SCHEPPNER, DOROTHY C.,  
deceased**

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

*Co-Executors:* Jacqueline K. Scheppner, 3276 Lake Front Drive, Erie, PA 16505-1970; Kathleen A. Scheppner, 5297 S. Cottonwood Club Circle, Holladay, UT 84117-7638; and James D. Cullen, 100 State Street, Suite 700, Erie, PA 16507

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

**STEFANOVSKI, KRSTE,  
deceased**

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

*Administratrix:* Nancy Oestreicher, 34 South Road, Harrison, NY 10528

*Attorney:* None

**VARO, BEATRICE L.,  
deceased**

Late of the County of Erie and Commonwealth of Pennsylvania

*Executor:* Samuel J. Varo Jr., c/o Norman A. Stark, Esq., Suite 300, 300 State Street, Erie, PA 16507

*Attorneys:* Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, Suite 300, 300 State Street, Erie, PA 16507

**VICARY, JOAN RAE,  
deceased**

Late of the Commonwealth of Pennsylvania  
*Executor:* Ruth Thompson Carroll,  
 660 East 10th Street, Erie, PA 16503  
*Attorney:* John M. Bartlett,  
 Vendetti & Vendetti, 3820 Liberty  
 Street, Erie, PA 16509

**THIRD PUBLICATION**

**ALLEN, GARY, a/k/a, GARY P.  
ALLEN, a/k/a, GARY PATRICK  
ALLEN,  
deceased**

Late of the Borough of Lake City, County of Erie, State of Pennsylvania  
*Executrix:* Valerie Allen, 2626 Penn Street, Lake City, Pennsylvania 16423  
*Attorney:* Grant M. Yochim, Esq.,  
 24 Main St. E., P.O. Box 87, Girard,  
 PA 16417

**FREEMAN, THOMAS L., a/k/a  
THOMAS LEROY FREEMAN,  
a/k/a LEROY FREEMAN,  
deceased**

Late of Wayne Township, Erie County, Pennsylvania  
*Executrix:* Tina M. Freeman, 13577 W. Smith St. Ext., Corry, PA 16407  
*Attorney:* William E. Barney,  
 200 North Center Street, Corry,  
 Pennsylvania 16407

**KIMMY, MARJORIE LUCILLE,  
deceased**

Late of the City of Corry, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Patricia A. Mennor, c/o Paul J. Carney, J., Esq., 224 Maple Avenue, Corry, PA 16407  
*Attorney:* Paul J. Carney, Jr., Esq.,  
 224 Maple Avenue, Corry, PA 16407

**POWERS, LUCILLE J.,  
a/k/a LUCILLE JOSEPHINE  
POWERS, a/k/a LUCILLE  
POWERS,  
deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania  
*Executor:* Sean Powers, 1590 West Gatesburg Road, Warriorsmark, PA 16877  
*Attorney:* Peter W. Bailey, Esquire,  
 3210 West 32nd Street, Erie,  
 Pennsylvania 16506-2702

**RYS, RICHARD C., a/k/a  
RICHARD CHARLES RYS, a/k/a  
RICHARD RYS,  
deceased**

Late of the City of Erie, County of Erie, State of Pennsylvania  
*Executor:* Richard D. Rys, 6733 Buchanan Avenue, West Mifflin, PA 15122  
*Attorney:* Grant M. Yochim, Esq.,  
 24 Main St. E., P.O. Box 87, Girard,  
 PA 16417

**WILLIS, CAROLYN, a/k/a  
CAROLYN B. WILLIS,  
deceased**

Late of the Township of Millcreek, County of Erie, State of Pennsylvania  
*Executor:* Theodore D. Willis, 2811 Homestead, Erie, PA 16506  
*Attorney:* James R. Steadman, Esq.,  
 24 Main St. E., P.O. Box 87, Girard,  
 PA 16417



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12:15 p.m. - 1:45 p.m. - Seminar

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