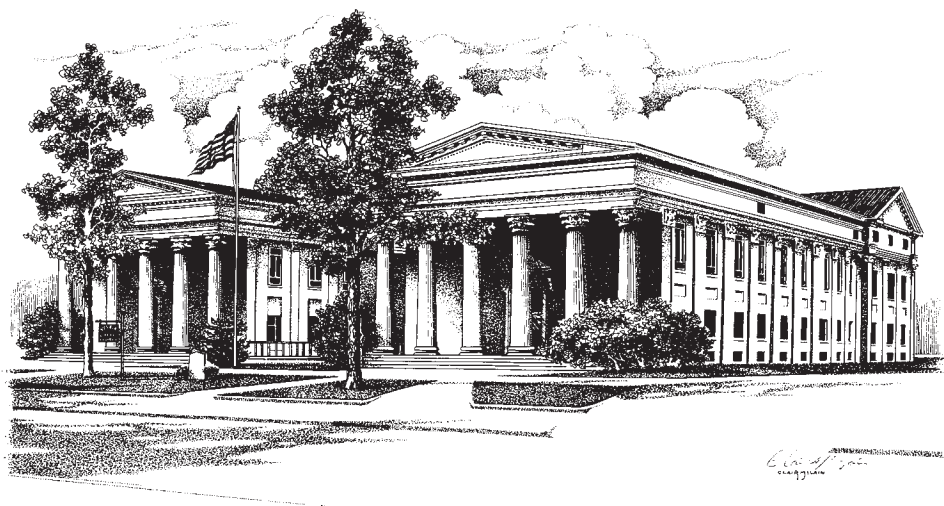


*Erie
County
Legal
Journal*

October 19, 2018

Vol. 101 No. 42



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Affinito v. Baker Hughes Inc., et al.

Erie County Legal Journal

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

Managing Editor: Megan E. Black

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Erie County Bar Association

Calendar of Events and Seminars

MONDAY, OCTOBER 22, 2018

ECBA Board of Directors Meeting
ECBA Headquarters
Noon

THURSDAY, OCTOBER 25, 2018

Annual Admission Ceremonies
11:00 a.m. - Court of Common Pleas Ceremony
(Courtroom H, ECCH)
11:45 a.m. - lunch (Erie Club)
1:15 p.m. - Federal Ceremony

THURSDAY, OCTOBER 25, 2018

Defense Bar Only Meeting
ECBA Headquarters
4:00 p.m.

MONDAY, OCTOBER 29, 2018

Bankruptcy Section Meeting
The Will J. & Mary B. Schaaf Education Center
Noon

FRIDAY, NOVEMBER 2, 2018

SATURDAY, NOVEMBER 3, 2018

Bench-Bar Conference
Seneca Niagara Resort

MONDAY, NOVEMBER 5, 2018

Workers' Compensation Section Meeting
The Will J. & Mary B. Schaaf Education Center
Noon

MONDAY, NOVEMBER 12, 2018

Veteran's Day Observed
Erie County and Federal Courthouses Closed

MONDAY, NOVEMBER 12, 2018

Budget Committee Meeting
ECBA Headquarters
8:30 a.m.

TUESDAY, NOVEMBER 13, 2018

In-House Counsel Meeting
ECBA Headquarters
Noon

MONDAY, NOVEMBER 19, 2018

ECBA Board of Directors Meeting
ECBA Headquarters
Noon

TUESDAY, NOVEMBER 20, 2018

Family Law Section Meeting
Judge Walsh's courtroom
Noon

THURSDAY, NOVEMBER 22, 2018

FRIDAY, NOVEMBER 23, 2018

Thanksgiving Holiday
ECBA Office Closed
Erie County and Federal Courthouses Closed



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

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Notice – Positions Available 2019

The Erie County Court of Common Pleas has contract positions available for attorneys to provide representation for indigent criminal defendants (adult & juvenile), indigent criminal defendants in PCRA's, homicide defendants, and parents and/or children in dependency and IVT cases, as well as Guardian Ad Litem.

The breakdown of available positions for 2019 is as follows:

	<u>Contract Amt.</u>
Indigent criminal defendants – Adult	5 positions
Indigent criminal defendants – Juvenile	3 positions
Dependency/IVT Hearings	7 positions
PCRAs	1 position
Guardian Ad Litem	4 positions
Coordinating Guardian Ad Litem	1 position
Indigent criminal defendants – Homicide	

All contracts may be reviewed in the Court Administrators Office. Please direct all letters of interest and/or resume to Robert J. Catalde, Esquire, District Court Administrator. Please specify each position or positions for which you are applying.

DEADLINE: November 2, 2018

In order to be considered for the 2019 contract year, all Attorneys currently under contract must reapply by the deadline date above.

Oct. 19

SEEKING PARALEGAL OR LEGAL SECRETARY

Paralegal or legal secretary with experience in both Federal and State Court matters, especially in Criminal area. Knowledge of QuickBooks and basic bookkeeping necessary. Applicants are invited to send their resume to: Leonard Ambrose, Esquire, 3702 Volkman Road, Erie, PA 16506. Feel free to also respond by telephone or by email.

lambrose@ambroselawfirm.net

Office: 814-459-5900

Cellphone: 814-397-9071

Position for a qualified individual is available immediately.

Oct. 12, 19, 26 and Nov. 2

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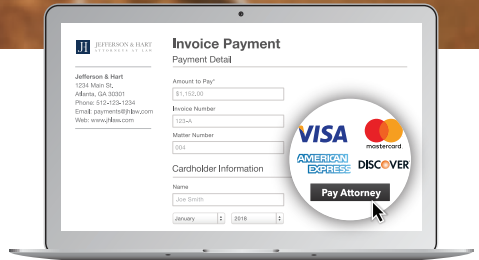
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MARY ANN AFFINITO, and SALVATORE AFFINITO, her husband, Plaintiffs
v.
BAKER HUGHES INC., et al., Defendants

DAMAGES / JOINT LIABILITY

Joint liability is defined as liability shared by two or more parties.

DAMAGES / JOINT AND SEVERAL LIABILITY

Joint and several liability is defined as liability that may be apportioned either among two or more parties or to only one or a few select members of the group, at the adversary's discretion. When a plaintiff seeks to impose joint and several liability on two or more defendants, he seeks to recover a judgment which he can then enforce in whole or in part against each of them. Imposition of joint and several liability enables the injured party to satisfy an entire judgment against any one of the tortfeasors, even if the wrongdoing of that tortfeasor contributed only a small part to the harm inflicted.

DAMAGES / JOINT AND SEVERAL LIABILITY / PLEADING

The Fair Share Act expressly states joint and several liability may be imposed where the defendant has been held liable for not less than 60% of the total liability apportioned to all parties. 42 Pa.C.S. § 7102(a.1)(3)(iii).

DAMAGES / JOINT AND SEVERAL LIABILITY / PLEADING

The Fair Share Act reflects the Legislature's intention to have a fact-finder allocate liability among joint tortfeasors.

DAMAGES / JOINT AND SEVERAL LIABILITY / PLEADING

The policy of permitting plaintiffs to recover jointly and severally against multiple defendants is to assure those defendants who are substantially responsible for a plaintiff's injury will have to account for the full amount of the plaintiff's harm.

VENUE / PLAINTIFF'S CHOICE OF FORUM

A plaintiff's choice of forum is afforded great weight. The plaintiff is generally given her choice of forum so long as the requirements of personal and subject matter jurisdiction are satisfied.

PRELIMINARY OBJECTIONS / VENUE

Under the Pennsylvania Rules of Civil Procedure, a party may file preliminary objections on the grounds of improper venue. The party seeking to change venue bears the burden of proving that change in venue is "necessary."

VENUE / CHANGE OR TRANSFER OF VENUE / DISCRETION OF COURT

Trial courts have "considerable discretion" when determining whether a request to change venue should be granted.

VENUE / PLEADING

Unlike the pleading practice in the federal courts, in Pennsylvania, the plaintiff is not required to plead the facts upon which venue and jurisdiction depend.

VENUE / PLACE OF ACCRUAL OF RIGHT OF ACTION

Under Pennsylvania's venue statute, a personal action may be brought against a corporation or similar entity in and only in: (1) the county where its registered office or principal place of business is located; (2) a county where it regularly conducts business; (3) the county where the cause of action arose; (4) a county where a transaction or occurrence took place out of

which the cause of action arose; or (5) a county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property. Pa.R.C.P. 2179(a).

VENUE / CORPORATE AND BUSINESS ORGANIZATIONS

Where defendants residing in separate counties jointly or jointly and severally incur an obligation or commit a tort, a single action can be brought against all defendants either in the county of the cause, or in a county in which one of the defendants may be served. For example, a plaintiff may bring her action in any county where one corporate defendant maintains its principal place of business notwithstanding that a co-defendant resides in another county.

VENUE / AFFIDAVITS AND OTHER EVIDENCE

While affidavits may be used to resolve factual issues with respect to challenges to jurisdiction and venue if the facts averred are clear and specific, Pennsylvania appellate courts note this is not a recommended procedure.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
 CIVIL DIVISION
 No. 11349 – 2018

Appearances: Joni M. Mangino, Esq., Gregory C. Scheuring, Esq., & Brian M. Lucot, Esq.,
 for Defendants National Fuel Gas Distribution Corporation and National
 Fuel Gas Supply Corporation f/k/a United Natural Gas Company
 Jason T. Shipp, Esq., & Joseph J. Cirilano, Esq., for Plaintiffs Mary Ann
 Affinito and Salvatore Affinito

OPINION

Domitrovich, J.

September 28, 2018

The matter before this Trial Court are the Preliminary Objections to Plaintiffs’ Complaint and accompanying Brief in Support filed by Defendants National Fuel Gas Distribution Corporation and National Fuel Gas Supply Corporation f/k/a United Natural Gas Company (collectively “National Fuel”). The issues are: (1) whether Plaintiffs’ Complaint is in accord with the Fair Share Act in pleading claims for damages “jointly and severally” against the named Defendants, including National Fuel; and (2) whether venue in the instant action against National Fuel properly is in Erie County, Pennsylvania. This Trial Court provides the following analysis:

Plaintiffs are individuals residing at 27040 State Highway 27, Guys Mills, Pennsylvania 16327. (Complaint at ¶ 1). On May 24, 2018, Plaintiffs filed a Complaint against twenty-one (21) Defendants alleging seven causes of action arising from Plaintiff Mary Ann Affinito’s (“Mary Ann”) mesothelioma diagnosis due to her alleged exposure to asbestos. (Complaint at ¶ 24-26). Plaintiffs’ Complaint alleges Defendants engaged in the activities of mining, milling, manufacturing, distributing, supplying, selling, and/or recommending, installing, and/or removing asbestos materials. (Complaint at ¶ 27).

Plaintiffs in particular allege Plaintiff Salvatore Affinito (“Salvatore”) worked with and/or around asbestos at National Fuel from 1954 through 1996 in Meadville, Pennsylvania as

a laborer, utility man, pipefitter, welder, and sub-foreman. (Complaint at ¶ 23). During this time, Plaintiffs allege Salvatore then transported home via his clothing said asbestos dust and fibers to his wife Mary Ann from 1963 to the present. (Complaint at ¶ 24). Plaintiffs allege Mary Ann was exposed to these asbestos-containing dust and fibers causing Mary Ann to develop consequently mesothelioma. (Complaint at ¶ 24-25). Plaintiffs allege Mary Ann was diagnosed with mesothelioma on January 8, 2018. (Complaint at ¶ 26).

On August 1, 2018, National Fuel filed its Preliminary Objections to Plaintiffs Complaint and accompanying Brief in Support. On August 22, 2018, Plaintiffs filed an Answer to National Fuel's Preliminary Objections with the Affidavit of Salvatore Affinito attached thereto. On September 19, 2018, oral argument was held at which Brian M. Lucot, Esq., appeared for National Fuel; and Jason T. Shipp, Esq., appeared for Plaintiffs Mary Ann Affinito and Salvatore Affinito.

The law is well settled in Pennsylvania regarding Preliminary Objections. Specifically, preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt. *Bourke v. Kazaras*, 746 A.2d 642, 643 (Pa.Super.2000). The test on preliminary objections is whether it is clear and free of doubt from all the facts pled that the pleader will be unable to prove facts legally sufficient to establish his right to relief. *Id.* When ruling on preliminary objections in the nature of a demurrer, a court must overrule the objections if the complaint has averred sufficient facts which, if believed, would entitle the petitioner to relief under any theory of law. *Gabel v. Cambruzzi*, 616 A.2d 1364, 1367 (Pa. 1992). All material facts set forth in the complaint as well as all inferences reasonably deducible therefrom are admitted as true for the purpose of this review. *Clevenstein v. Rizzuto*, 266 A.2d 623, 624 (Pa. 1970). Where a doubt exists as to whether a demurrer should be sustained, this doubt should be resolved in favor of overruling the demurrer. *Gabel*, 616 A.2d at 1367 (Pa. 1992).

The first issue is whether Plaintiffs' Complaint is in accord with the Fair Share Act in pleading claims for damages "jointly and severally" against the named Defendants, including National Fuel. The relevant provisions of the Fair Share Act (the "Act") state as follows:

(a.1) Recovery against joint defendant; contribution.—

(1) Where recovery is allowed against more than one person, including actions for strict liability, and where liability is attributed to more than one defendant, each defendant shall be liable for that proportion of the total dollar amount awarded as damages in the ratio of the amount of that defendant's liability to the amount of liability attributed to all defendants and other persons to whom liability is apportioned under subsection (a.2).

(2) Except as set forth in paragraph (3), a defendant's liability shall be several and not joint, and the court shall enter a separate and several judgment in favor of the plaintiff and against each defendant for the apportioned amount of that defendant's liability.

(3) A defendant's liability in any of the following actions shall be joint and several, and the court shall enter a joint and several judgment in favor of the plaintiff and against the defendant for the total dollar amount awarded as damages:

- (i) Intentional misrepresentation.
- (ii) An intentional tort.
- (iii) ***Where the defendant has been held liable for not less than 60% of the total liability apportioned to all parties.***
- (iv) A release or threatened release of a hazardous substance under section 702 of the act of October 18, 1988 (P.L. 756, No. 108), 1 known as the Hazardous Sites Cleanup Act.
- (v) A civil action in which a defendant has violated section 497 of the act of April 12, 1951 (P.L. 90, No. 21), 2 known as the Liquor Code. 42 Pa.C.S.A. § 7102

42 Pa.C.S. § 7102(a.1) (emphasis added).

In the instant case, as noted above, Plaintiffs have pled joint and several liability against all Defendants, including National Fuel. The Pennsylvania Superior Court has stated “the main purposes of the Fair Share Act [is] to make joint and several liability inapplicable to most tort cases.” *Roverano v. John Crane, Inc.*, 177 A.3d 892, 914 (Pa. Super. 2017). However, the plain language of this Act does not preclude Plaintiffs at the pleading stage of this litigation from alleging joint and several liability against all Defendants. Specifically, Section 7102(a.1)(3)(iii) clearly states that if one defendant is held liable for more than 60% of the liability in a given case, joint and several liability applies to that particular defendant. *Id.* at 909 (citing 42 Pa.C.S. § 7102(a.1)(3)(iii)) (“This exception assures that those defendants who are substantially responsible for a plaintiff’s injury will have to account for the full amount of the plaintiff’s harm.”).

At this stage of litigation, this Trial Court cannot predict the manner in which the trier of fact, a jury, will assess the relative liability of each Defendant; the responsibility of apportioning liability among the named-Defendants is solely within the fact finder’s prerogative. *See id.* at 908 (noting this Act “reflects the Legislature’s intention to have a fact-finder allocate liability among joint tortfeasors”). As this Act expressly states joint and several liability may be imposed “where the defendant has been held liable for not less than 60% of the total liability apportioned to all parties,” Plaintiffs are not precluded from pleading joint and several liability in their Complaint. *See* 42 Pa.C.S. § 7102(a.1)(3)(iii). Plaintiffs’ Complaint is therefore in accord with Fair Share Act in pleading claims for damages “jointly and severally” against the named Defendants. Thus, Defendant’s first claim is without merit.

The second issue is whether venue in the instant action against National Fuel properly lies in Erie County, Pennsylvania. A plaintiff’s choice of forum is afforded great weight. *Masel v. Glassman*, 689 A.2d 314, 316 (1997). Under the Pennsylvania Rules of Civil Procedure, a party may file preliminary objections on the grounds of improper venue. Pa.R.C.P. 1028(a) (1). “[C]orporations have a constitutional right to seek a change of venue.” *Purcell v. Bryn Mawr Hosp.*, 579 A.2d 1282, 1284 (Pa. 1990). Under Pa.R.C.P. 1006(d)(1), trial courts have “considerable discretion” when determining whether a request to change venue should be granted. *Id.* The plaintiff is generally given her choice of forum so long as the requirements of personal and subject matter jurisdiction are satisfied, and the party seeking to change venue bears the burden of proving that venue is “necessary.” *Id.* “Unlike the pleading practice in the Federal Courts, in Pennsylvania, the plaintiff is not required to plead the facts upon

which venue and jurisdiction depend.” *United Beauty Supply Co. v. John Maffei, t/a Marcus Beauty Salon*, 1979 WL 139262 (C.C.P. Butler, Oct. 11, 1979) (noting “the rules of civil procedure do not require that plaintiff shall plead the facts of venue and jurisdiction”).

Under Pa.R.C.P. 2179(a), a personal action may be brought against a corporation or similar entity in and only in:

- (1) the county where its registered office or principal place of business is located;
- (2) a county where it regularly conducts business;
- (3) the county where the cause of action arose;
- (4) a county where a transaction or occurrence took place out of which the cause of action arose, or
- (5) a county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

Pa.R.C.P. 2179(a). “The statutory scheme established by Rule 2179 enables suitors to bring a cause of action against corporations on the four different grounds noted above.” *Purcell*, 579 A.2d at 1284. Further, Pa.R.C.P. 1006(c)(1) states, in relevant part:

an action to enforce a joint or joint and several liability against two or more defendants, except actions in which the Commonwealth is a party defendant, may be brought against all defendants in any county in which the venue may be laid against any one of the defendants under the general rules of [Pa.R.C.P. 2179].

Pa.R.C.P. 1006(c)(1).¹ “[W]here defendants residing in separate counties jointly or jointly and severally incur an obligation or commit a tort, a single action can be brought against all defendants either in the county of the cause, or in a county in which one of the defendants may be served.” *Tarasi v. Settino*, 298 A.2d 903, 904 (1972); *see also See Ro-Med Construction Co., Inc. v. Clyde M. Bartley Co., Inc.*, 361 A.2d 808 (1976) (concluding venue was proper in county where plaintiff alleged joint or joint and several liability and one of the defendants was subject to venue in county). Indeed, “reading Rule 1006(c) in conjunction with Rule 2179, a plaintiff may bring her action in any county where one corporate defendant maintains . . . its principal place of business . . . notwithstanding that a co-defendant resides in another county.” *Zappala v. Brandolini Prop. Mgmt., Inc.*, 909 A.2d 1272, 1280 (Pa. 2006) (noting that the “stated policy for this rule allowing an action to be brought in any county in which venue is proper against any one of the defendants is to avoid multiplicity of suits”).

In the instant case, Plaintiffs’ Complaint alleges Defendant Zurn Industries a/k/a Erie City

¹ “Joint liability is defined as liability shared by two or more parties.” *Sehl v. Neff*, 26 A.3d 1130, 1133 (Pa. Super. 2011) (quoting Black’s Law Dictionary, at 933 (8th ed.2004)) (internal quotations omitted). Joint and several liability is defined as “liability that may be apportioned either among two or more parties or to only one or a few select members of the group, at the adversary’s discretion.” *Id.* As the Pennsylvania Superior Court has stated: “when a plaintiff seeks to impose joint and several liability on two or more defendants, he seeks to recover a judgment which he can then enforce in whole or in part against each of them.” *Hileman v. Morelli*, 605 A.2d 377, 384 (Pa. Super. 1992). The Pennsylvania Superior Court has further explained “[i]mposition of joint and several liability enables the injured party to satisfy an entire judgment against any one of the tort-feasors, even if the wrongdoing of that tortfeasor contributed only a small part to the harm inflicted.” *Glomb v. Glomb*, 530 A.2d 1362, 1365 (Pa. Super. 1987). “If the defendants are held jointly and severally liable, they may have contribution rights as between them, but this does not affect the plaintiff’s right to collect his judgment from either.” *Morelli*, 605 A.2d at 384.

Iron Works is a corporation incorporated under the laws of Pennsylvania whose principal place of business is located in Erie, Pennsylvania. Venue in this action is therefore proper against Zurn Industries in Erie County since Plaintiffs' Complaint establishes Erie County is "the county where [Zurn Industries'] . . . principal place of business is located." See Pa.R.C.P. 2179(a)(1). Moreover, as noted above, since Plaintiffs' Complaint alleges joint and several liability against all twenty-one (21) Defendants in the instant matter, Plaintiffs have filed "an action to enforce a joint or joint and several liability against two or more defendants." See Pa.R.C.P. 1006(c)(1). Thus, since venue exists in Erie County as to Zurn Industries by virtue of its principal place of business being located in Erie County, the instant action may be brought against all defendants, including National Fuel, in Erie County. See e.g. *Gilfor ex rel. Gilfor v. Altman*, 770 A.2d 341, 344 (Pa. Super. 2001) ("We agree with the trial court that the action at issue involved a joint/joint and several liability against the defendants, and, therefore, under Pa.R.C.P. 1006(c), the action could be brought in any county in which venue lies against any one of the defendants.").

Plaintiffs also assert even without application of Pa.R.C.P. 1006(c) in the instant case, venue in Erie County is proper with respect to National Fuel pursuant to Pa.R.C.P. 2179(a). Specifically, Plaintiffs attached the Affidavit of Salvatore Affinito. Therein, Salvatore Affinito avers facts in support of Plaintiffs' argument that this action may be brought against National Fuel in Erie County since Erie County is "where a transaction or occurrence took place out of which [Plaintiffs'] cause of action arose." See Pa.R.C.P. 2179(a)(4). This Trial Court notes that while affidavits may be used to resolve factual issues with respect to challenges to jurisdiction and venue if the facts are clear and specific, "[t]his is not a recommended procedure." *Slota v. Moorings, Ltd.*, 494 A.2d 1, 3 (1985); cf. *Ambrose v. Cross Creek Condominiums*, 602 A.2d 864, 869 (Pa. Super. 1991) (recognizing that resolving objections to personal jurisdiction by "submission of evidence by affidavit is not a recommended procedure"). Nevertheless, regardless of Plaintiffs' Affidavit, this Trial Court finds and concludes venue is proper as to all Defendants pursuant to Pa.R.C.P. 1006(c)(1) since venue is properly in Erie County as to Zurn Industries. Thus, this Trial Court need not address Plaintiffs' additional argument with respect to venue or consider Plaintiffs' Affidavit.

Accordingly, this Trial Court finds and concludes Plaintiffs' Complaint is in accord with the Fair Share Act in pleading claims for damages "jointly and severally" against the named Defendants, and venue in the instant action against National Fuel properly lies in Erie County, Pennsylvania. Consistent with the foregoing, this Trial Court hereby enters the following Order of Court:

ORDER

AND NOW, to-wit, this 28th day of September, 2018, after oral argument on the Preliminary Objections to Plaintiffs' Complaint and accompanying Brief in Support filed by Defendants National Fuel Gas Distribution Corporation and National Fuel Gas Supply Corporation f/k/a United Natural Gas Company (collectively "National Fuel"), by and through their counsel, Brian M. Lucot, Esq.; at which Brian M. Lucot, Esq., appeared for National Fuel; and Jason T. Shipp, Esq., appeared for Plaintiffs Mary Ann Affinito and Salvatore Affinito; and upon consideration of Plaintiffs' Answer to National Fuel's Preliminary Objections to Plaintiffs' Complaint; and in view of the relevant statutory and case law; and consistent with the

analysis in the foregoing Opinion, it is hereby **ORDERED, ADJUDGED AND DECREED** that National Fuel's Preliminary Objections to Plaintiffs' Complaint are **OVERRULED**. National Fuel shall file an Answer to Plaintiffs' Complaint within twenty (20) days from the date of this Order.

BY THE COURT

/s/ Stephanie Domitrovich, Judge

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 12341-18 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Alexander Emanuel Martinez to Alexander Emanuel Rodriguez.

The Court has fixed the 22nd day of October, 2018 at 9:45 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 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.

Oct. 19

DISSOLUTION NOTICE

NOTICE OF WINDING UP PROCEEDINGS OF EDINBORO MOLDING, INC., A PENNSYLVANIA CORPORATION TO ALL CREDITORS OF EDINBORO MOLDING, INC.:

This is to notify you that Edinboro Molding Inc., a Pennsylvania Corporation with its registered office located at 24484 Mosiertown Road, Edinboro, PA 16412 is dissolving and winding up its business.

SHAFER LAW FIRM, P.C.

10744 State Hwy 18

Conneaut Lake, PA 16316

Oct. 19

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: Apex Cleaning Services

2. Address of the principle place of business: 12100 Trinity Road, North East, PA 16428

3. The real names and addresses, including street and number, of the persons who are parties

to the registration: Second Gen Investments, LLC, 12100 Trinity Road, North East, PA 16428

4. An application for registration of a fictitious name under the Fictitious Names Act was filed on or about: October 2, 2018

Oct. 19

FICTITIOUS NAME NOTICE

Notice is hereby given that a Registration of Fictitious Name was filed in the Commonwealth of Pennsylvania for Carlisle SynTec Systems with a principal place of 16430 N. Scottsdale Road, Suite 400, Scottsdale, AZ 85254 in Maricopa County. The name and address of the entity interested in the business is Carlisle Construction Materials, LLC with a principal office address of 16430 N. Scottsdale Road, Suite 400, Scottsdale, AZ 85254. Its Registered Office is United Agent Group Inc. in Erie County. This is filed in compliance with 54 Pa.C.S. 311.

Oct. 19

FICTITIOUS NAME NOTICE

1. Fictitious Name: Chuck & Ginny's At The Arena

2. Address of principal place of business, including street and number: 723 French Street, Erie, PA 16501.

3. The real names and addresses, including street and number, of the persons who are parties to the registration: Kevin Camp Properties, Inc., 2666 West 8th Street, Erie, Pennsylvania 16505

4. An application for registration of a fictitious name under the Fictitious Names Act was filed on August 30, 2018.

Aaron E. Susmarski, Esq.

4036 West Lake Road

Erie, PA 16505

Oct. 19

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act of Assembly No. 295, effective March 16, 1983, of intention to file in the office of the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, an application for the

conduct of a business in Erie County, Pennsylvania under the assumed or fictitious name, style or designation of Name: Shearer's Foods Waterford, with its principal place of business at: 821 Route 97 South, Waterford, PA 16441. The names and addresses of all persons or entities owning or interested in said business are: Barrel O'Fun Snack Food Co. East, LLC, 821 Route 97 South, Waterford, PA 16441. The application has been filed on 8/2/2018.

Oct. 19

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN THAT Articles of Incorporation were filed with and approved by the Department of State of the Commonwealth of Pennsylvania on the 6th day of September, 2018, for the purpose of creating a business corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is Spicer Hersch, Inc.

Oct. 19

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 2016 and prior. This return has been confirmed Nisi by the court on October 10, 2018. 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. 19

**LEGAL NOTICE
IN THE UNITED STATES
DISTRICT COURT FOR THE
WESTERN DISTRICT OF
PENNSYLVANIA**

CIVIL ACTION NO.
1:18-CV-00062-AJS

UNITED STATES OF AMERICA,
Plaintiff
vs.

JARED W. SCHMIDT, Defendant
MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the United States District Court for the Western District of Pennsylvania and to me directed, I shall expose to public sale the real property located at and being more fully described at Erie County Deed Book 1432 Page 1902.

SAID SALE to be held at the Erie County Courthouse, 140 West Sixth Street, Room 209, Erie, PA 16501 at 10:00 a.m. prevailing standard time, on November 9, 2018.

ALL that certain tract of land, together with the buildings, and improvements erected thereon described as Tax Parcel No. (37) 4-48-11.01 recorded in Erie County, Pennsylvania, commonly known as: 11034 Highland Avenue, North East, PA 16428.

IDENTIFIED as Tax/Parcel #: (37) 4-48-11.01 in the Deed Registry Office of Erie County, Pennsylvania.

HAVING erected a dwelling thereon known as 11034 HIGHLAND AVENUE, NORTH EAST, PA 16428.

BEING the same premises conveyed to Jared W. Schmidt, dated July 18, 2007, and recorded on July 19, 2007 in the office of the Recorder of Deeds in and for Erie County, Pennsylvania.

Seized and taken in execution as the property of Jared W. Schmidt at the suit of the United States of America, acting through the Under Secretary of Rural Development on behalf of Rural Housing Service, United States Department of Agriculture, to be sold on Writ of Execution as Civil Action No. 1:18-cv-00062.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by certified check or money order upon the property being struck down to such bidder, and the remainder of the bid within thirty (30) days from the

date of the sale and in the event the bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Sheila Blessing, 700 Grant Street, Suite 2360, Pittsburgh, PA 15219. Bidder must have deposit funds immediately available and on his person in order to bid, bidder will not be permitted to leave the sale and return with deposit funds. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth (30th) day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Michael Baughman, Acting United States Marshal. For additional information, please contact Cathy Diederich at 314-457-5514 or the USDA foreclosure website at www.resales.usda.gov.

Oct. 12, 19, 26 and Nov. 2



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**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 **Wednesday, October 10, 2018** and confirmed Nisi.

November 21, 2018 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>2018</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
347.	Job D. Knighton	Lynda Lord, Administratrix.....	Adam G. Anderson, Esq.
348.	Nancy F. Collier	Grant R. Twiss, Executor	Darlene M. Vlahos, Esq.
349.	Ruth E. Gingenbach	Craig Zraggen, Executor	Gary H. Nash, Esq.
	a/k/a Ruth Ellen Gingenbach		
350.	John J. Euliano, Sr.	Douglas J. Euliano,	John A. Lauer, Esq.
	a/k/a Dr. John J. Euliano, Sr.	Successor Trustee	

KENNETH J. GAMBLE
Clerk of Records
Register of Wills &
Orphans' Court Division

Oct. 19, 26

Erie County Bar Association

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\$200/hour - M-F, all other times, weekends



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**ANDRASY, KATHRYN ANN, a/k/a KATHRYN A. ANDRASY, deceased**

Late of the Township of Girard, County of Erie, State of Pennsylvania

Executor: Norman D. Andrasy, 7679 Meadville Road, Girard, PA 16417

Attorney: James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

BINALI, ELDAR, a/k/a ELDAR S. BINALI, a/k/a ELDAR BINALI UGLY, a/k/a ELDAR S. BINALI UGLY, deceased

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

Administratrix: Yulduz Bashatova, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

Attorney: Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

EMBLER, BEVERLY A., deceased

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

Administrator C.T.A.: Douglas B. Embler, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

Attorney: Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

GINGRICH, ROBERT L., deceased

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania

Executrix: Barbara E. Moore, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501

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

HILL, GARY R., deceased

Late of Township of Millcreek

Executrix: Beverly A. Jenks, 4450 Carlton Dr., Fairview, PA 16415

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

KONNERTH, OSCAR F., deceased

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

Co-Executors: Stephen M. Konnerth and Kathleen A. Dunlap, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508
Attorney: Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

KOPPELMAN, JOAN V., deceased

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

Executor: Richard S. Koppelman, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

Attorney: John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

ROGOWSKI, MOLLY I., deceased

Late of 6351 West Lake Road, Fairview, PA 16505

Personal Representative: Eugene Dobrzynski, 5507 River Run Drive, Fairview, PA 16415

Attorney: Al Lubiejewski, Esquire, 402 West 6th Street, Erie, Pennsylvania 16507

SECOND PUBLICATION**ARMOR, DAVID H., a/k/a DAVID HOWELL ARMOR, deceased**

Late of the Township of Lawrence Park, County of Erie and Commonwealth of Pennsylvania

Executrix: Kelly B. Armor
Attorney: James H. Richardson, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

BAKER, RAYMOND L., deceased

Late of Waterford, County of Erie, Commonwealth of Pennsylvania
Executrix: Jodi L. Baker, 270 Merchant Avenue, Apt. R, Mt. Joy, PA 17552

Attorney: None

BALZER, WILLIAM CARL, a/k/a WILLIAM C. BALZER, a/k/a WILLIAM BALZER, deceased

Late of the Township of North East, County of Erie and Commonwealth of Pennsylvania

Executor: Karl W. Balzer, c/o 3210 West 32nd Street, Erie, Pennsylvania 16506-2702

Attorney: Peter W. Bailey, Esquire, 3210 West 32nd Street, Erie, Pennsylvania 16506-2702

HARRIS, ROBERT LEE, a/k/a ROBERT L. HARRIS, deceased

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

Executor: Philip O. Harris, c/o Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508
Attorney: Darlene M. Vlahos, Esq., Vlahos Law Firm, P.C., 3305 Pittsburgh Avenue, Erie, PA 16508

JOINT, RITAMAE, a/k/a RITA M. JOINT, a/k/a RITA JOINT, a/k/a RITA THAYER JOINT, deceased

Late of City of Erie, Erie County, Commonwealth of Pennsylvania
Executrix: Patricia Joint-Lipchik, c/o Frances A. McCormick, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Frances A. McCormick, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

LEMOCK, EDWARD J., deceased

Late of Waterford Township, County of Erie, Commonwealth of Pennsylvania
Executor: Bonita M. Skrzypczyk, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esquire, Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

SHINGLEDECKER, JESSIE I., a/k/a JESSIE SHINGLEDECKER, deceased

Late of the Township of Fairview, County of Erie, State of Pennsylvania
Executor: Mark A. Webster, 3236 West 13th Street, Erie, Pennsylvania 16505
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

SMRCKA, ARNOLD J., deceased

Late of Amity Township, Erie County, Commonwealth of Pennsylvania
Executrix: Janet E. Picciano, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

STAFFORD, ELIZABETH ANN, deceased

Late of the City of Erie, County of Erie, Pennsylvania
Administratrix: Collette A. Thomas, c/o 150 East 8th Street, Erie, PA 16501
Attorney: Gregory L. Heidt, Esquire, 150 East 8th Street, Erie, PA 16501

STELLMACH, KAREN A., a/k/a KAREN STELLMACH, deceased

Late of the Township of Elk Creek, County of Erie, State of Pennsylvania
Executrix: Bonnie L. Peyton, 9630 East Peach Street, Girard, Pennsylvania 16417
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

TEED, JERALD L., a/k/a JERALD TEED, deceased

Late of the Township of Wayne, County of Erie, Commonwealth of Pennsylvania
Co-Executrices: Carla Pifer and Karen Richard, c/o Paul J. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407
Attorney: Paul J. Carney, Jr., Esq., 224 Maple Avenue, Corry, PA 16407

THOMAS, ANN M., a/k/a ANN N. THOMAS, deceased

Late of North East Township, County of Erie, Pennsylvania
Executor: John B. Thomas, c/o Tammi L. Elkin, Esquire, 143 East Main St., North East, PA 16428
Attorney: Tammi L. Elkin, Esquire, 143 East Main St., North East, PA 16428

THIRD PUBLICATION

BONKOWSKI, HARRY M., deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executor: Dwayne R. Blose, c/o Michael A. Agresti, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Michael A. Agresti, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

CURLEY, ELIZABETH JEAN, a/k/a JEAN E. CURLEY, deceased

Late of Township of Summit, Erie County, Pennsylvania
Executor: Timothy Curly, c/o Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507
Attorney: Joseph P. Martone, Esquire, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

DAILEY, MICHAEL P., deceased

Late of City of Erie, Erie County, Commonwealth of Pennsylvania
Attorney: Frances A. McCormick, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

DEIDERICH, MICHELE L. TITUS, deceased

Late of Greene Township
Executor: Jeffrey L. Deiderich, Jr., c/o 246 West 10th Street, Erie, PA 16501
Attorney: Evan E. Adair, Esq., 246 West 10th Street, Erie, PA 16501

ELLIS, RICHARD C., a/k/a RICHARD ELLIS, deceased

Late of Harborcreek Township, County of Erie and Commonwealth of Pennsylvania
Administrator: Jeffrey C. Ellis, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

FALCON, EILEEN GRIFFIN, a/k/a EILEEN ANN GRIFFIN, a/k/a EILEEN FALCON, deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Administrator: Andrew G. Falcon, 5572 Bear Run Circle, Fairview, PA 16415
Attorney: None

GORTON, VICTORIA JOAN KALUZNY, a/k/a VICTORIA JOANN GORTON, deceased

Late of the City of Erie, County of Erie, Pennsylvania
Executrix: Kimberly A. Stetson, c/o 3939 West Ridge Road, Suite B-27, Erie, PA 16506
Attorney: James L. Moran, Esquire, 3939 West Ridge Road, Suite B-27, Erie, PA 16506

HALL, ETHEL L., deceased

Late of the Borough of North East, County of Erie, State of Pennsylvania
Executor: Richard G. Hall, c/o 78 East Main Street, North East, PA 16428
Attorney: BRYDON LAW OFFICE, Attorney John C. Brydon, 78 East Main Street, North East, PA 16428

HINTZ, CHARLES L., a/k/a CHARLES LEE HINTZ, deceased

Late of Summit Township, County of Erie and Commonwealth of Pennsylvania
Executor: Leroy M. Hintz
Attorney: Craig A. Zonna, Esquire, ELDERKIN LAW FIRM, 150 East 8th Street, Erie, PA 16501

KING, CAROL A., a/k/a CAROL ANN KING, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Val Jean Peterman, c/o William J. Schaaf, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: William J. Schaaf, Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

KOCHEL, ETHEL MARIE, a/k/a ETHEL S. KOCHEL, deceased

Late of City of Erie, County of Erie
Executor: Patricia J. Young, 5771 Jordan Road, Erie, Pennsylvania 16510
Attorney: Jay R. Stranahan, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

KOSCH, FRANK J., a/k/a FRANK KOSCH, deceased

Late of the City of Corry, County of Erie, Commonwealth of Pennsylvania
Executrix: Pamela S. Miller, c/o Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407
Attorney: Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407

LaCASTRO, JEAN A., deceased

Late of the Township of Millcreek, Erie County, Pennsylvania
Administrator C.T.A.: Randy L. Shapira, 305 West Sixth Street, Erie, PA 16507
Attorney: Randy L. Shapira, Esquire, 305 West Sixth Street, Erie, PA 16507

McKELVEY, RICHARD C., deceased

Late of Township of Greene, County of Erie, and Commonwealth of Pennsylvania
Executrix: Laura Levan, 1765 Robison Road East, Erie, PA 16509
Attorney: Gary K. Schonhaler, Esquire, The Conrad - F.A. Brevillier House, 502 Parade Street, Erie, PA 16507

O'HERN, MARIE T., a/k/a MARIE THERESE O'HERN, deceased

Late of Harborcreek Township, City of Erie, Commonwealth of Pennsylvania
Executor: Mark A. O'Hern, c/o Jeffrey D. Scibetta, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Jeffrey D. Scibetta, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

SHEPPARD, ESTHER, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Anthony D. Sheppard, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**SMITH, ALLIE R.,
deceased**

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

Executor: Marques Adams, 905 West 10th Street, Erie, PA 16502-1136

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

**WERTZ, CHARLES R., a/k/a
CHARLES RICHARD WERTZ,
a/k/a CHARLES WERTZ,
deceased**

Late of the Township of Harborcreek, County of Erie, State of Pennsylvania

Executors: Kelly A. Shroust and David S. Wertz, c/o 337 West 10th Street, Erie, PA 16502

Attorneys: THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

LEIGH ANN ORTON.....814-347-5724
Orton & Orton
68 E. Main St.
North East, PA 16428.....*lorton@ortonandorton.com*

G. CHRISTOPHER ORTON.....814-347-5724
Orton & Orton
68 E. Main St.
North East, PA 16428..... *corton@ortonandorton.com*

STEPHEN E. SEBALD.....814-833-1987
Sebald & Hackwelder(f) 814-616-4095
2503 West 26th Street
Erie, PA 16506*lgm@sebaldhackwelder.com*

ERIC V. HACKWELDER.....814-833-1987
Sebald & Hackwelder(f) 814-616-4095
2503 West 26th Street
Erie, PA 16506 *evh@sebaldhackwelder.com*

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