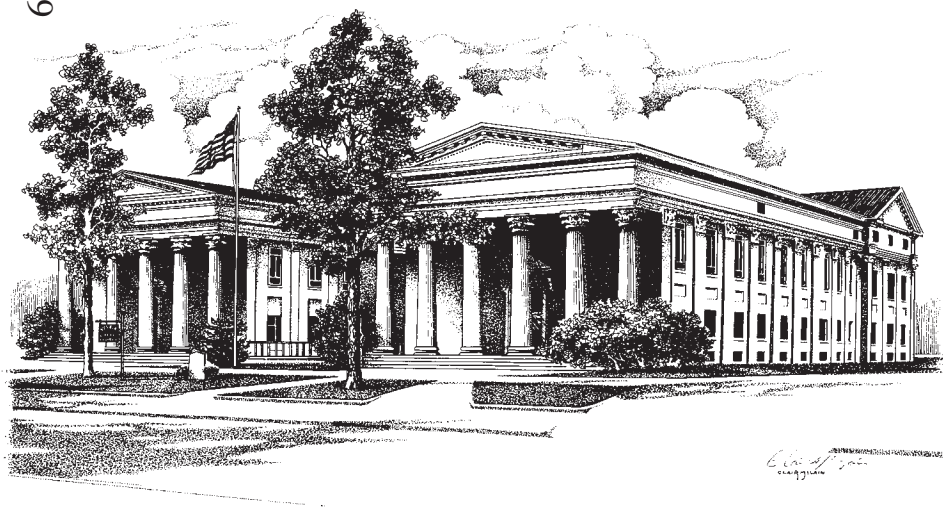


Erie  
County  
Legal  
Journal

November 22, 2019

Vol. 102 No. 47



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In the United States District Court for the Western District of Pennsylvania  
Weber v. Erie County, et al.

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# Erie County Legal Journal

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

Managing Editor: Megan E. Anthony

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# Erie County Bar Association

## Calendar of Events and Seminars

### MONDAY, NOVEMBER 25, 2019

ECBA Board of Directors Meeting  
Noon

The Will J. Schaaf & Mary B. Schaaf Education Center

### TUESDAY, NOVEMBER 26, 2019

ECBA Live Seminar  
*An Update on WCAIS*

The Will J. Schaaf & Mary B. Schaaf Education Center

12:00 p.m. - Lunch

12:30 p.m. - 1:00 p.m. - Seminar

\$5 (lunch only)

\$47 (lunch with CLE credit)

1 hour substantive

### TUESDAY, NOVEMBER 26, 2019

Law Foundation Trustees Meeting  
4 p.m.

ECBA Headquarters

### THURSDAY, NOVEMBER 28, 2019

### FRIDAY, NOVEMBER 29, 2019

Thanksgiving Holiday

ECBA Office Closed

Erie County and Federal Courthouses Closed

### WEDNESDAY, DECEMBER 4, 2019

ECBA Annual Membership Meeting & CLE  
Lake Shore Country Club

Registration - 2:00 p.m.

*Proficient Legal Writing — A Judge's Perspective*  
2:15 p.m. - 3:45 p.m.

\$70 (ECBA members), \$90 (non-members)

1.5 hour substantive

Transfer break - 3:45 p.m. - 4:00 p.m.

*Avoiding Malpractice*

4:00 p.m. - 5:00 p.m.

\$47 (ECBA members), \$60 (non-members)

1 hour ethics

*followed by*

Social "Hour" - 5:00 p.m. - 5:30 p.m.

Business Meeting - 5:30 p.m. - 6:30 p.m.

Cocktail Party - 6:30 - 7:30 p.m.

### THURSDAY, DECEMBER 5, 2019

ECBA Video Replay

*No One Makes It Out Unscathed: The Effects of  
Personal Trauma and Stress On Our Lives*

ECBA Headquarters

4:00 p.m. - 5:00 p.m.

\$47 (ECBA members)

\$60 (non-members)

1 hour ethics



Erie County Bar  
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To view PBI seminars visit the events calendar  
on the ECBA website  
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IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
DOCKET NO. 90050-19

**IN RE: CUSTODY CONTEMPT / CUSTODY MODIFICATION  
FILING LOCATION AND FEES**

**ADMINISTRATIVE ORDER**

And now, this 4th day of November, 2019, it is hereby ORDERED as follows:

1. A new filing fee of \$50.00, payable at the time of filing, shall be charged for all petitions, complaints, or other actions for custody contempt filed pursuant to R.C.P. 1915.12 and Erie L.R. 1915.12. All such actions shall be filed at the Erie County Prothonotary's office. The Prothonotary may retain \$10.00 of the \$50.00 filing fee as a processing fee.

2. Further, all petitions, complaints, or other actions seeking modification of an existing custody order shall be filed at the Erie County Prothonotary's office. The current filing fee of \$50.00 for such actions, payable at the time of filing, shall remain the same. The Prothonotary may retain \$10.00 of the \$50.00 filing fee as a processing fee.

3. This Order shall be processed in accordance with Pa.R.J.A. 103(d) and shall be effective January 1, 2020, or thirty (30) days after the date of publication in the *Pennsylvania Bulletin*, whichever occurs later.

**BY THE COURT:**

**/s/ Joseph M. Walsh, III, Judge**

Nov. 22

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**RICHARD EDWARD WEBER, Plaintiff****v.****ERIE COUNTY, et al., Defendants**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF PENNSYLVANIA

Case No. 1:19-00124 (Erie)

**MEMORANDUM OPINION AND ORDER**

Plaintiff Richard Edward Weber commenced this civil rights action pursuant to 42 U.S.C. § 1983, alleging that the County of Erie, Pennsylvania, and various Erie County officials violated his constitutional rights during his criminal prosecution in the Court of Common Pleas of Erie County. ECF No. 1. Defendants have moved to dismiss Weber’s Complaint [ECF No. 10], pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons set forth below, the Court will grant Defendants’ motion.<sup>1</sup>

**I. Factual Background**

According to Weber’s Complaint and the exhibits’ attached thereto, Weber was arrested on May 24, 2018, and charged with three counts of access device fraud, three counts of identity theft, and three counts of theft by deception. ECF No. 1, ¶ 10. Magisterial District Judge Paul Bizzarro subsequently released Weber on a \$25,000 unsecured bond. *Id.* On August 22, 2018, and September 18, 2018, Defendant Jeremy Lightner, an Assistant District Attorney for Erie County, successfully petitioned for Weber’s bond to be increased to \$50,000, with 10% cash security, which Plaintiff posted. *Id.* at ¶¶ 11-14. On September 26, 2018, Defendant Lightner sought and obtained a further modification of Weber’s bond. *Id.* at ¶ 15. This time, Weber’s bond was increased to \$250,000 “straight cash,” which Weber was unable to post. *Id.* at ¶ 16. Consequently, Weber was detained in the Erie County Prison for approximately two and one-half months pending trial on the charges against him.

While detained, Weber moved pro se to modify his bond, and the motion was heard by Judge Daniel Brabender of the Court of Common Pleas of Erie County on November 19, 2016. *Id.* at ¶¶ 17-18. Defendant Nicholas Maskrey, another Erie County Assistant District Attorney, opposed Weber’s motion. *Id.* at ¶ 18. Despite this opposition, the Court reduced Weber’s bond to 10% of \$17,500, which Weber posted to secure his pretrial release. *Id.* at ¶¶ 18-19. Weber claims that the “unlawful and unconstitutional 2 1/2 month period of incarceration” caused him to suffer a variety of damages, including the loss of his employment, the loss of his residence, and the demise of his marriage. *Id.* at ¶ 19.

As Exhibit D to his Complaint, Weber attached the Commonwealth’s Motion to Revoke Bond, which Defendant Michael Burns, another Erie County Assistant District Attorney filed on September 18, 2018. ECF 1-3, pp. 1-9. Included in that document is a Police Criminal Complaint filed on September 13, 2018, charging Weber with three additional counts of access device fraud, two additional counts of theft by deception, and one new count of attempted theft by deception. *Id.* pp. 4-6.

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<sup>1</sup> The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge pursuant to 28 U.S.C. § 636. *See* ECF Nos. 13, 16.

Weber's Complaint asserts that Defendants Burns, Lightner, and Maskrey filed "aggressive, persistent, habitual and harassing motions" to modify his bail amounts, which constituted: (1) "unlawful and unreasonable seizure and unlawful arrest" in violation of the Fourth Amendment, (2) excessive bail in violation of the 8th Amendment, and (3) a civil conspiracy. He additionally asserts a claim against Erie County pursuant to *Monell v. Dep't of Soc. Servs. Of City of N.Y.*, 436 U.S. 658 (1978), and a claim against Defendant Jack Daneri, the Erie County District Attorney, for "failure to properly train and closely monitor the elicit (sic) conduct of their ADAs[.]"

Defendants' motion seeks dismissal of Weber's claims on the following grounds: (1) Burns, Lightner, and Maskrey are protected by absolute prosecutorial immunity; (2) the Complaint fails to state a claim against Defendant Kathy Dahlkemper, the Erie County Executive, because it does not allege facts to support her personal involvement in any actionable conduct; (3) the Complaint fails to allege facts sufficient to support a "failure to train/supervise" claim against District Attorney Jack Daneri; and (4) the Complaint fails to state a *Monell* claim against Erie County because it does not allege facts to support a policy or custom that resulted in constitutional harm to Weber.<sup>2</sup> This matter is fully briefed and ripe for disposition.

## II. Standards of Review

### A. *Pro se* Litigants

*Pro se* pleadings, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers." *Haines v. Kerner*, 404 U.S. 519, 520-521 (1972). If the court can reasonably read pleadings to state a valid claim on which the litigant could prevail, it should do so despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant's unfamiliarity with pleading requirements. *Boag v. MacDougall*, 454 U.S. 364 (1982); *United States ex rel. Montgomery v. Bierley*, 141 F.2d 552, 555 (3d Cir. 1969) (petition prepared by a prisoner may be inartfully drawn and should be read "with a measure of tolerance"); *Smith v. U.S. District Court*, 956 F.2d 295 (D.C. Cir. 1992); *Freeman v. Dep't of Corrections*, 949 F.2d 360 (10th Cir. 1991). Under our liberal pleading rules, during the initial stages of litigation, a district court should construe all allegations in a complaint in favor of the complainant. *Gibbs v. Roman*, 116 F.3d 83 (3d Cir. 1997). *See, e.g., Nami v. Fauver*, 82 F.3d 63, 65 (3d Cir. 1996) (discussing Fed. R. Civ. P. 12(b)(6) standard); *Markowitz v. Northeast Land Co.*, 906 F.2d 100, 103 (3d Cir. 1990) (same).

<sup>2</sup> Defendants assert two additional arguments that require little discussion. First, Defendants argue that Erie County is not a "person" amenable to suit under 42 U.S.C. § 1983. This argument is contrary to clearly established law. Although its liability cannot be based upon *respondet superior* or vicarious liability, Erie County is a "person" for purposes of § 1983 and can face liability under that statute where its own policies or customs cause constitutional injury. *See Monell*, 436 U.S. 658 at 690 (municipalities and other local governmental entities may also be held liable as "persons" as the term is used in § 1983). The case cited by Defendants, *Regan v. Upper Darby Twp.*, held that "a prison or correctional facility is not a 'person' that is subject to suit under federal civil rights laws." 2009 WL 650384, at \*4 (E.D. Pa. Mar. 11, 2009), aff'd, 363 F. App'x 917 (3d Cir. 2010). Unlike a prison, which is essentially a collection of buildings, a county is a legally recognized municipal entity and, as such, is considered a person for purposes of § 1983. Second, Defendants argue that this Court should exercise its discretion pursuant to the *Younger* abstention doctrine and decline to exercise jurisdiction over this case since the crux thereof relates to state court criminal proceedings. *See Younger v. Harris*, 401 U.S. 37 (1971). But federal courts routinely hear § 1983 cases involving allegations of excessive bond. *See, e.g., Swope v. City of Pittsburgh*, 90 F. Supp. 3d 400, 411 (W.D. Pa. 2015); *see also Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69 (2013) ("[F]ederal courts are obliged to decide cases within the scope of federal jurisdiction.").

### B. Motion to Dismiss

A motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) tests the legal sufficiency of the complaint. *Kost v. Kozakiewicz*, 1 F.3d 176, 183 (3d Cir. 1993). In deciding a motion to dismiss, the court is not opining on whether the plaintiff will be likely to prevail on the merits; rather, the plaintiff must only present factual allegations sufficient “to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007) (citing 5 C. Wright & A. Miller, *Federal Practice and Procedure* § 1216, pp. 235-236 (3d ed. 2004)). See also *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). A complaint should only be dismissed pursuant to Rule 12 (b)(6) if it fails to allege “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570 (rejecting the traditional 12(b)(6) standard established in *Conley v. Gibson*, 355 U.S. 41 (1957)). In making this determination, the court must accept as true all well-pled factual allegations in the complaint and views them in a light most favorable to the plaintiff, *U.S. Express Lines Ltd. v. Higgins*, 281 F.3d 383, 388 (3d Cir. 2002).

While a complaint does not need detailed factual allegations to survive a motion to dismiss, a complaint must provide more than labels and conclusions. *Twombly*, 550 U.S. at 555. A “formulaic recitation of the elements of a cause of action will not do.” *Id.* (citing *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). Moreover, a court need not accept inferences drawn by a plaintiff if they are unsupported by the facts as set forth in the complaint. See *California Pub. Employee Ret. Sys. v. The Chubb Corp.*, 394 F.3d 126, 143 (3d Cir. 2004) (citing *Morse v. Lower Merion Sch. Dist.*, 132 F.3d 902, 906 (3d Cir. 1997)). Nor must the Court accept legal conclusions disguised as factual allegations. *Twombly*, 550 U.S. at 555. See also *McTernan v. City of York, Pennsylvania*, 577 F.3d 521, 531 (3d Cir. 2009) (“The tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.”).

Expounding on the *Twombly/Iqbal* line of cases, the Third Circuit has articulated the following three-step approach:

First, the court must ‘tak[e] note of the elements a plaintiff must plead to state a claim.’ Second, the court should identify allegations that, ‘because they are no more than conclusions, are not entitled to the assumption of truth.’ Finally, ‘where there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement for relief.’

*Burtch v. Milberg Factors, Inc.*, 662 F.3d 212, 221 (3d Cir. 2011) (quoting *Santiago v. Warminster Twp.*, 629 F.3d 121, 130 (3d Cir. 2010)). This determination is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Iqbal*, 556 U.S. at 679.

### III. Analysis

A. Burns, Lightner, and Maskrey are entitled to absolute prosecutorial immunity.

Defendants, argue that the three assistant district attorneys named as defendants in this action, Burns, Lightner, and Maskrey, are shielded from suit by absolute prosecutorial immunity. The doctrine of absolute immunity protects prosecutors from liability related

to their official acts. *See Imbler v. Pachtman*, 424 U.S. 409, 417-20 (1976). “More than a mere defense to liability, prosecutorial immunity embodies the right not to stand trial, and is properly raised in a Rule 12(b)(6) motion to dismiss.” *Odd v. Malone*, 538 F.3d 202, 207 (3d Cir. 2008) (internal quotations and citations omitted). Under this doctrine, a prosecutor is absolutely immune from liability for money damages under § 1983 for acts “within the scope of his duties in initiating and pursuing a criminal prosecution.” *Imbler*, 424 U.S. at 410. “Ultimately, whether a prosecutor is entitled to absolute immunity depends on whether she establishes that she was functioning as the state’s ‘advocate’ while engaging in the alleged conduct that gives rise to the constitutional violation.” *Yarris v. Cnty. of Del.*, 465 F.3d 129, 136 (3d Cir. 2006) (citing *Buckley v. Fitzsimmons*, 509 U.S. 259, 274 (1993)).

Burns, Lightner, and Maskrey are protected by the doctrine of absolute prosecutorial immunity in this case. Weber’s claims relate solely to the actions taken by each during bond modification proceedings, which courts have held constitute acts within the scope of a prosecutor’s duties of initiating and pursuing a criminal prosecution. *See Thomas v. Stanek*, 2015 WL 757574, at \*10 (W.D. Pa. Feb. 23, 2015) (finding that the doctrine applies because “[w]henver [the prosecutor] objected to Plaintiff being freed on bond, he was acting as an advocate for the Commonwealth and, thus, his decision is protected by absolute immunity”) *See also Myers v. Morris*, 810 F.2d 1437, 1446 (8th Cir. 1987) (“advocating a particular level of bail” is covered by absolute immunity); *Pinaud v. Cty. of Suffolk*, 52 F.3d 1139, 1149 (2d Cir. 1995) (same); *Lerwill v. Joslin*, 712 F.2d 435, 438 (10th Cir. 1983) (same); *Burns v. County of King*, 883 F.2d 819, 823-24 (9th Cir. 1989) (same). Accordingly, Burns, Lightner, and Maskrey are immune from liability arising out of actions they took in connection with the modification of Weber’s bond.

Weber also alleges that Burns, Lightner, and Maskrey engaged in a civil conspiracy to deprive him of his constitutional rights. Whether Weber asserts his claim against each of these defendants individually or as members of an alleged conspiracy, the claim is based upon their advocacy of bond positions in their roles as assistant district attorneys. As such, their actions are shielded by absolute prosecutorial immunity regardless of the label Weber attaches to his claim.<sup>3</sup> *See Pinaud v. Cty. of Suffolk*, 52 F.3d 1139, 1148 (2d Cir. 1995) (the “fact that such a conspiracy is certainly not something that is properly within the role of a prosecutor is immaterial, because “[t]he immunity attaches to his function, not to the manner in which he performed it”) (citations omitted); *Patterson v. City of Philadelphia*, 2009 WL 1259968, at \*9 (E.D.Pa. May 1, 2009) (“The doctrine of absolute prosecutorial immunity precludes conspiracy-based claims as well.”) (collecting cases); *Stankowski v. Farley*, 487 F. Supp. 2d 543, 552 (M.D. Pa. 2007) (prosecutorial immunity “doctrine similarly protects ADA Tonkin from suit by the plaintiff for conspiracy under Section 1985(3)”).

Even if the Court were to assume that an assertion of “conspiracy” could remove the alleged conduct of the three ADA defendants from prosecutorial immunity, Weber’s

<sup>3</sup> The Court also notes that Exhibit D to Weber’s Complaint further undermines his claim because it shows that he was separately charged with new criminal offenses before at least one bond modification request. Weber’s Exhibit D reveals a valid prosecutorial purpose for this bond modification; thus, the Court can properly decline to accept Plaintiff’s bare allegation of conspiracy to deprive him of constitutional rights as true. *See Sazerac Co., Inc. v. Falk*, 861 F.Supp. 253. (S.D. N.Y. 1994) (“For purposes of motion to dismiss for failure to state claim on which relief can be granted, if allegations of complaint are contradicted by documents made part of complaint, document controls and court need not accept as true allegations of complaint.”); *see also Public Lands for the People, Inc. v. U.S. Dept. of Agriculture*, 733 F.Supp.2d 1172, (E.D. Cal. 2010).



claim would still fail. In order to state a claim of civil conspiracy, a plaintiff must present “‘enough factual matter (taken as true) to suggest that an agreement was made,’ in other words, ‘plausible grounds to infer an agreement.’” *Great W. Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 178 (3d Cir. 2010) (quoting *Twombly*, 550 U.S. at 556)). Further, the plaintiff “must set forth allegations that address the period of the conspiracy, the object of the conspiracy, and the certain actions of the alleged conspirators taken to achieve that purpose.” *Id.* at 179 (quoting *Shearin v. E.F. Hutton Grp., Inc.*, 885 F.2d 1162, 1166 (3d Cir.1989)); see also *Startzell v. City of Philadelphia*, 533 F.3d 183, 205 (3d Cir. 2008) (stating that a conspiracy requires a meeting of the minds). Conclusory allegations are not entitled to the presumption of truth that ordinarily is applied during a court’s Rule 12(b)(6) review of a complaint. *McTernan*, 577 F.3d at 531.

In this case, Weber has failed to plead facts from which an inference of a conspiracy may be drawn. The Complaint lacks any factual allegations as to the time, place, or specific object(s) of the alleged conspiracy. Such facts are needed for a claim of conspiracy to survive a motion to dismiss. See *Evancho v. Fisher*, 423 F.3d 347, 353 (3d Cir. 2005) (“[s]uch allegations ... must be made with appropriate particularity in that [they] must allege the particulars of conduct, time, place, and person responsible.”); see, e.g., *Ulrich v. Corbett*, 614 Fed. Appx. 572, 574-75 (3d Cir. 2015) (upholding dismissal of a section 1983 complaint alleging conspiracy because “a conclusory allegation of agreement at some unidentified point does not supply facts adequate to show illegality.”) (citing *Twombly*, 550 U.S. at 557). Instead, Weber has asserted only conclusory allegations of collusion, which are not entitled to any presumption of truth. *McTernan*, 577 F.3d at 531. Accordingly, Weber has failed to state a claim of civil conspiracy.

B. The Complaint fails to state a claim against County Executive Dahlkemper.

Weber’s Complaint names Erie County Executive Kathy Dahlkemper as a defendant in this action but does not allege any facts to support that she engaged in any actionable conduct or was personally involved in any matters or decisions relating to the criminal prosecution against him. Instead, his claim against Dahlkemper appears to be based solely upon her position as County Executive. Weber’s reliance on Dahlkemper’s position without allegations of her personal involvement is insufficient as a matter of law. See, e.g., *Mearin v. Swartz*, 951 F.Supp.2d 776, 781-82 (W.D. Pa. 2013) (dismissing claims pursuant to Rule 12(b)(6) because the plaintiffs had failed to set forth sufficient facts to establish that certain defendants had played an affirmative part in the alleged Eighth Amendment violation). Accordingly, Weber’s claim against Dahlkemper is dismissed.

C. The Complaint also fails to state a claim against District Attorney Daneri.

Weber’s claim against District Attorney Daneri is subject to dismissal for similar reasons. Weber asserts generally that Daneri failed to properly train and supervise Burns, Lightner, and Maskrey. A failure to train claim requires a plaintiff to identify specific training not provided that could reasonably be expected to prevent the injury that occurred. *Joines v. Twp. of Ridley*, 229 Fed. Appx. 161 (3d Cir. 2007). Moreover, when relying on a failure to train employees, a plaintiff must show that the failure amounts to deliberate indifference to the rights of persons with whom the employees will come into contact. *City of Canton v. Harris*, 489 U.S. 378, 388, 109 S.Ct 1197, 103 L.Ed.2d 412 (1989). Regarding supervisory liability, two theories have been recognized: where supervisors have “‘established and maintained a

policy, practice or custom which directly caused [the] constitutional harm,” and where “they ‘participated in violating plaintiff’s rights, directed others to violate them, or, as the person[s] in charge, had knowledge of and acquiesced in [their] subordinates’ violations’.” *Santiago v. Warminster Twp.*, 629 F.3d 121, 129 n. 5 (3d Cir. 2010) (quoting *A.M. ex rel. J.M.K. v. Luzerne Cnty. Juvenile Det. Ctr.*, 372 F.3d 572, 586 (3d Cir. 2004)). Weber’s allegations against Daneri are insufficient to support any of the foregoing theories of liability. Beyond his conclusory assertions of “failure to train and supervise,” Weber’s Complaint alleges no facts against Daneri, and his conclusory allegations are entitled to no weight in deciding a motion to dismiss. *Santiago*, 629 F.3d at 131 (*Iqbal*, 129 S.Ct. at 1949, directs that the Court disregard “naked assertions devoid of further factual enhancement” and “threadbare recitals of the elements of a cause of action, supported by mere conclusory statements.”).

Again, Weber bases his claim against Daneri essentially upon his status as District Attorney. This status alone will not support a claim against him. *See Monell*, 436 U.S. at 691 (finding no vicarious liability for a municipal “person” under 42 U.S.C. § 1983). Further, to the extent Weber may allege that Daneri engaged in conduct relating to Weber’s bond amount or bond conditions, Daneri would enjoy the same prosecutorial immunity as his assistant district attorneys. *Whitfield v. City of Philadelphia*, 587 F. Supp. 2d 657, 667 (E.D. Pa. 2008). Finally, and fundamentally, prosecutorial immunity shields a district attorney from claims based upon alleged failures to train and supervise subordinates where the alleged failures concern prosecutorial functions. *Id.* This is the case here. Accordingly, the claim against Daneri will be dismissed.

D. The Complaint also fails to state a *Monell* claim against the County of Erie.

Weber asserts a *Monell* claim against Erie County based upon District Attorney Daneri’s alleged failure to train and supervise the conduct of ADA’s Burns, Lightner, and Maskrey. A county cannot be held liable for its employees’ alleged misconduct based on *respondet superior*. *Monell*, 436 U.S. at 694-95; *Panas v. City of Philadelphia*, 871 F.Supp.2d 370, 377-78 (E.D. Pa. May 14, 2012). Rather, the “government itself, through its policies or practices, must be sufficiently culpable before” a court imposes § 1983 liability. *Id.* Such culpability exists only “when the alleged constitutional transgression implements or executes a policy, regulation, or decision officially adopted by the governing body or informally adopted by custom.” *McTernan v. City of York*, 564 F.3d 636, 657 (3d Cir. 2009) (quoting *Beck v. City of Pittsburgh*, 89 F.3d 966, 971 (3d Cir. 1996)). The Supreme Court has recognized that a local government’s “culpability for a deprivation of rights is at its most tenuous where a claim turns on a failure to train.” *Connick v. Thompson*, 563 U.S. 51, 61 (2011). Moreover, merely alleging the existence of a policy, practice, or custom is not enough. The plaintiff in a § 1983 action must show an “affirmative link” between the occurrence of alleged misconduct and the municipality’s policy, custom, or practice. *Rizzo v. Goode*, 423 U.S. 362, 371 (1976). Thus, consistent with *Monell*, in order to impose liability on a local governmental entity for failing to act to preserve constitutional rights, a § 1983 plaintiff must establish not only that he was deprived of a constitutional right, but that: (1) the municipality had a policy; (2) the policy “amounts to deliberate indifference” to the plaintiff’s constitutional right; and (3) the policy was the “moving force behind the constitutional violation.” *City of Canton, Ohio v. Harris*, 489 U.S. 378, 389-91 (1989). Weber has not alleged facts to support any of these elements. Accordingly, his claim against the County of Erie must be dismissed.

#### IV. Leave to Amend

The Third Circuit has instructed that if a civil rights complaint is vulnerable to dismissal for failure to state a claim, the Court should permit a curative amendment unless an amendment would be inequitable or futile. *Grayson v. Mayview State Hosp.*, 293 F.3d 103, 108 (3d Cir. 2002). This instruction is equally applicable to *pro se* litigants and those represented by counsel. *Alston v. Parker*, 363 F.3d 229, 235 (3d Cir. 2004).

In the present case, the prosecutorial immunity that shields Daneri, Burns, Lightner, and Maskrey renders any amendment against them futile. Weber's claims against these individuals arise squarely from their engagement in their prosecutorial functions. Accordingly, the claims against these defendants are dismissed with prejudice.

It is also highly dubious whether Weber can allege facts to support a claim against County Executive Dahlkemper. In order to prevail on an Eighth Amendment excessive bail claim, Weber must demonstrate that (1) bail was excessive in light of the valid state interests sought to be protected, and (2) ***the defendant actually and proximately caused bail to be excessive.*** See *McKnight v. Taylor*, 2012 WL 5880331, at \*7 (D.N.J. Nov. 20, 2012) (emphasis supplied) (dismissing excessive claim for failure to allege that bail was constitutionally excessive or that defendants caused it to be so); *Moore v. Carteret Police Dep't*, 2013 WL 5554411, at \*8 (D.N.J. Sept. 20, 2013) (same). The second element of the claim is particularly difficult to sustain in a state such as Pennsylvania where the setting of bond is within the sole province of the judicial authority. See *Lutz v. Lavelle*, 809 F.Supp. 323, 327 (M.D. Pa. 1991). While it is difficult to conceive of facts Weber could allege against Dahlkemper to satisfy the type of personal involvement necessary to state an excessive bail claim against her, the Court cannot say that such a claim is a legal impossibility. Therefore, the claim against Dahlkemper is dismissed without prejudice. Weber is reminded, however, that any amendment he may file against Dahlkemper or any other Defendant is subject to the requirement of Rule 11 of the Federal Rules of Civil Procedure.

Finally, while Daneri and his assistants are protected by prosecutorial immunity, this protection does not extend to the County of Erie and, because the deficiencies of Weber's *Monell* claim against the County involve a lack of factual allegations to support elements of the claim, the Court cannot say as a matter of law that amendment is futile as to this claim. Accordingly, dismissal of the claim against the County is without prejudice.

Weber is reminded that an amended complaint "must be complete in all respects. It is a new pleading which stands by itself as an adequate complaint without reference to the complaint already filed." *Williams v. Ferdarko*, 2018 WL 3653272, at \*1 n. 1 (W.D. Pa. Aug. 1, 2018).

#### V. Order

For the foregoing reasons, Defendants' Motion to Dismiss [ECF No. 10] is GRANTED. Weber's claims against Defendants Daneri, Burns, Lightner, and Maskrey are dismissed with prejudice. Weber's claims against Defendants Dahlkemper and the County of Erie are dismissed without prejudice. Weber is granted leave to file an amended complaint as to the latter two defendants within twenty (20) days of this Memorandum Opinion and Order.

/s/ **Richard A. Lanzillo, United States Magistrate Judge**

Dated: November 5, 2019

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

IN RE:  
 MARY R. DOHLER d/b/a  
 DOHLER COTTAGES AND  
 FARMS, Debtor  
 MARY R. DOHLER d/b/a  
 DOHLER COTTAGES AND  
 FARMS, Movant

vs.  
 GEORGE DOHLER, et al.,  
 Respondents  
 Case No. 19-10976-TPA  
 Chapter 11

Date and Time of Hearing:  
 December 12, 2019 at 9:30 a.m.

**NOTICE OF HEARING ON**  
**DEBTOR'S MOTION TO SELL**  
**REAL ESTATE FREE AND**  
**DIVESTED OF LIENS**

NOTICE IS HEREBY GIVEN  
 THAT Mary R. Dohler d/b/a Dohler  
 Cottages and Farms, Debtor, has filed  
 a Motion to Sell Real Estate Free and

Divested of Liens for the following  
 property: ten (10) acres of vacant,  
 wooded real estate locate on East  
 Lake Road, North East Township,  
 Pennsylvania (Erie County Tax  
 ID No. 37-015-037.0--004.03), to  
***Donald B. Tresler and Diane M.***  
***Tresler, 9033 Route 89, North East,***  
***Pennsylvania 16428, for the sum***  
***of \$50,000.***

***On or before December 5, 2019***, any  
***Objection*** to the sale shall be filed  
 with the U.S. Bankruptcy Court,  
 U.S. Courthouse, Room B160, 17  
 South Park Row, Erie, Pennsylvania  
 16501, with a copy served on all  
 interested parties.

A hearing is scheduled for ***December***  
***12, 2019 at 9:30 A.M.***, before Judge  
 Thomas P. Agresti in the Bankruptcy  
 Courtroom, U.S. Courthouse, Room  
 B160, 17 South Park Row, Erie,  
 Pennsylvania 16501, at which  
 time higher/better offers will be  
 considered and Objections to said  
 sale will be heard.

Arrangements for inspection prior to

said sale hearing may be made with:  
 Guy C. Fustine, Esquire,  
 Attorney for Debtor  
 Knox McLaughlin Gornall  
 & Sennett, P.C.  
 120 West Tenth Street  
 Erie, PA 16501  
 (814) 459-2800  
[gustine@kmgslaw.com](mailto:gustine@kmgslaw.com)

Nov. 22

*Erie County Bar Association*

*Videoconferencing Services*



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



**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. The fictitious name is: Stacy Lynn Photography
2. The address, including number and street, if any, of the principal place of business: 5720 Washington Ave., Erie, PA 16509
3. The name and address, including number and street, if any, of each individual interested in the business is: Stacy L. McFadden, 5720 Washington Ave., Erie, PA 16509
4. An application for registration of a fictitious name under the Fictitious Names Act was filed on October 24, 2019, with the Department of State.

Nov. 22

**INCORPORATION NOTICE**

NOTICE is hereby given that The Minority Community Investment Coalition has been incorporated under the provisions of the Nonprofit Corporation Law of 1988. Craig A. Zonna, Esq. ELDERKIN LAW FIRM 456 West 6th Street Erie, PA 16507

Nov. 22

**LEGAL NOTICE**

IN THE MATTER OF The Estate of THOMAS E. LARSON, ESQUIRE, deceased, late of the City of Erie, County of Erie and Commonwealth of Pennsylvania.

NOTICE is hereby given to all clients, past and present, of the aforementioned decedent, to claim their files within sixty (60) days from the date of this notice. All files not claimed within sixty (60) days from the date of this notice shall be destroyed.

To claim files, please contact the undersigned.

W. Atchley Holmes, Esquire  
Suite 300, 300 State Street  
Erie, PA 16507  
(814) 456-5301

Nov. 15, 22, 29

**LEGAL NOTICE**

IN RE: ADOPTION OF BABY GIRL LANCE, NO. A-27 of 2019, IN THE ORPHANS' COURT DIVISION OF THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA.

TO: Unknown Birth Father of Baby Girl Lance, born on the 9th day of February, 2019, in Pittsburgh, Allegheny County, Pennsylvania. A Petition has been filed asking the Court to put an end to all rights you have to your child, Baby Girl Lance. The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Orphans' Court Division of the Court of Common Pleas of Allegheny County, 1700 Frick Building, 437 Grant Street, Pittsburgh, Allegheny County, Pennsylvania 15219, on Wednesday, December 4, 2019, at 10:00 A.M., prevailing time. You

are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. You have the right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

**LAWYER REFERRAL SERVICE**

**The Allegheny County Bar Association  
11th Floor, Koppers Building,  
436 Seventh Avenue,  
Pittsburgh, PA 15219**

**Telephone: (412) 261-5555**

This is to inform you of an important option that may be available to you under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child. If all parties agree and the voluntary agreement is approved by the Court. If you are interested in learning more about this option for a voluntary agreement, contact me or your attorney, if you have one.

Gerri L. Sperleng, Esq.  
STRASSBURGER MCKENNA  
GUTNICK & GEFSKY  
Four Gateway Center, Suite 2200  
444 Liberty Avenue  
Pittsburgh, PA 15222  
412-281-5423

Nov. 8, 15, 22

**LEGAL NOTICE**

IN THE MATTER OF PROCEEDINGS BY THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE FOR THE CONDEMNATION OF PROPERTY OF:

**MIRIAM R. EAGLETON; MARQUES T. KINCAID; NOEL REMIGIO GONZALEZ; JOHN C. ANDERSON; MARIANNE C. MARTIN; COLLIN I. STANTON; PAMELA BARNES; VALERIE L. JONES; AARON B. AND ANGELA C. COLLINS; TEKEEYSHA KEYS; CATHERINE GADUSKI**

OWNERS OR REPUTED OWNER(S)

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

DOCKET NOS:

**#2019-12811; #2019-12815; #2019-12812; #2019-12807; #2019-12816; #2019-12817; #2019-12809; #2019-12813; #2019-12810; #2019-12814; #2005-12986**

**EMINENT DOMAIN  
NOTICE OF CONDEMNATION**

In accordance with Section 305 of the Eminent Domain Code of 1964, Pa. C.S. §305, the Redevelopment Authority of the City of Erie (the “Authority”) hereby notifies the owner(s) or reputed owner(s) (hereinafter “Condemnee(s)”), and any mortgage holder and/or lienholder of record that:

1. The property referenced below has been condemned by the Authority for the purposes of elimination of blight and promotion of urban renewal and rehabilitation pursuant to its authority under the Urban Redevelopment Law at 35 P.S. §§1701, 1712 and 1712.1.
2. A Declaration of Taking was filed on the date referenced below in the Court of Common Pleas of Erie County, Pennsylvania at the term and number referenced below.
3. The filing of the Declaration of Taking and this Notice of Condemnation were authorized by Resolution of the Authority, adopted at a meeting on the date referenced below, and the Resolution may be examined at the office of the Authority set forth in Paragraph 5 below.
4. The Condemnee(s) and the Properties being condemned, including the docket numbers at which the Declarations of Taking were filed, are as follows:

Condemnee(s)	Mortgagee(s) or Lienholders unable to be served	Address of Condemned Property	Tax Index Number of Condemned Property	Court Docket Number	Date of Public Meeting	Declaration of Taking Filing Date
Miriam R. Eagleton	David Tod Eagleton/ Michael J. Nies, Esq.	901 West 5th St. Erie, PA	(17) 4029-103	2019-12811	10/14/19	10/16/19
Marques T. Kincaid	Erie County Clerk of Courts	756-58 East 7th St. Erie, PA	(14) 1022-343	2019-12815	10/14/19	10/16/19
Noel Remigio Gonzalez	Erie County Clerk of Courts	335 East 10th St. Erie, PA	(15) 2017-216	2019-12812	10/14/19	10/16/19
John C. Anderson		552 East 13th St. Erie, PA	(15) 2028-321	2019-12807	10/14/19	10/16/19
Marianne C. Martin	Megan Lurnoff/ LVNV Funding, LLC/ Penn Elect	752-54 East 25th St. Erie, PA	(18) 5031-240	2019-12816	10/14/19	10/16/19
Collin L. Stanton	Darlene L. Robinson-Stanton/ Collin Stanton, Jr.	437 East 26th St. Erie, PA	(18) 5077-208	2019-12817	10/14/19	10/16/19
Pamela Barnes	Erie County Clerk of Courts/ Erie Water Works	1207 East 26th St. Erie, PA	(18) 5104-221	2019-12809	10/14/19	10/16/19
Valerie L. Jones	PHFA- HEMAP/ Erie Water Works	333 East 28th St. Erie, PA	(18) 5079-211	2019-12813	10/14/19	10/16/19
Aaron B. and Angela C. Collins	PNC Bank National Association/James E. Moser/ Dale A. Srochenski/ Erie Water Works/ PA Department of Revenue/ U.S. Attorney’s Office/ U.S. Attorney General/ U.S. Attorney W.D. of PA/ Internal Revenue Service/ Michael Musone, Esquire/ Northwest Savings Bank/ Richard J. Parks, Esq.	501 Cascade St. Erie, PA	(17) 4029-117	2019-12810	10/14/19	10/16/19

Tekeysha Keys	Deutsche Bank National Trust Company/ Erie Water Works	2126 Downing Ave. Erie, PA	(18) 5118-100	2019-12814	10/14/19	10/16/19
Catherine Gaduski	Gary Gaduski/ Carolyn Erb/ Cheryl Kindle/ Christine Attaway/ Huntington National Bank/ Michael S. Jan Janin, Esq./ Lawrence C. Bolla, Esq./Robert B. Helmand	1226 East 8th St. Erie, PA	(14) 1042-100	#12986-2005	8/15/05	8/17/05

5. The Condemnor is the Redevelopment Authority of the City of Erie, whose offices are located at 626 State Street, Room 107, Erie, PA 16501.

6. The nature of the title acquired in and to the condemned property is fee simple title.

7. The Authority Condemnor has secured the payment of just compensation for the Condemnee(s) by the filing with the Declaration of Taking a bond, without surety, payable to the Commonwealth of Pennsylvania, for the use of the owner of the property interests condemned, the condition of which shall be that the Condemnor shall pay the damages determined by law as authorized by 26 Pa.C.S. §303(a).

8. A detailed written offer of just compensation based on the fair market value of the condemned property, which amount compensates the Condemnee(s) for any loss sustained as a result of the condemnation of the property, has been prepared. Please contact Attorney Eugene C. Sundberg, Jr. at Marsh Spaeder Baur Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507, (814) 456-5301 during normal business hours to receive your written offer of just compensation and/or to review full copies of the Declaration of Taking and Notice of Condemnation.

**IF THE CONDEMNEE(S) WISH TO CHALLENGE THE POWER OR THE RIGHT OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE AS CONDEMNOR TO APPROPRIATE THE CONDEMNED PROPERTY, THE SUFFICIENCY OF THE SECURITY, THE PROCEDURE FOLLOWED BY THE CONDEMNOR, OR THE DECLARATION OF TAKING, THE CONDEMNEE(S) ARE REQUIRED TO FILE PRELIMINARY OBJECTIONS WITHIN THIRTY (30) DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE.**

REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE

Eugene C. Sundberg, Jr., Esquire, Marsh Spaeder Baur Spaeder & Schaaf, LLP  
300 State Street, Suite 300, Erie, PA 16507 (814) 456-5301

Nov. 22



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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, November 6, 2019** and confirmed Nisi.

**December 18, 2019** 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>2019</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
372.	Richard C. Kerner ..... a/k/a Dick Kerner	Linda C. Kerner, Administratrix.....	Kurt L. Sundberg, Esq.
373.	Genevieve Zemlansky ..... a/k/a Genevieve Ann Zemlansky	Gerald Slipcevic, Executor.....	David R. Devine, Esq.
374.	Edward J. Surovic.....	Sandra J. Turi, Executrix.....	James F. Nowalk, Esq.
375.	Suzanne M. McDanniels .....	Nora L. Fuchs, Emily S. Tuttle,..... Co-Executrices	S. Craig Shamburg, Esq.
376.	Joseph L. Sosnowski ..... a/k/a Joseph Leonard Sosnowski	Edward J. Sosnowski, Executor .....	Colleen R. Stumpf, Esq.

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

Nov. 15, 22

**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**

**ANDERSON, NANCY L., a/k/a NANCY ANDERSON, deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Kristie A. Fioravanti, c/o 504 State Street, 3rd Floor, Erie, PA 16501  
*Attorney:* Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

**BLEIL, JULIA C., a/k/a JULIE C. BLEIL, deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Mary Kay Carey, 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

**BRINE, RICHARD G., SR., deceased**

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania  
*Administrator C.T.A.:* Adam Davis, 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

**ESTOK, STEPHEN M., a/k/a STEVE M. ESTOK, deceased**

Late of Fairview Township, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Stephanie Estok, c/o Eugene C. Sundberg Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Eugene C. Sundberg Jr., Esq., MARSH, SPAEDER, BAUR, SPAEDER & SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

**HAZELTINE, KENNETH L., JR., deceased**

Late of the City of Corry, County of Erie, Pennsylvania  
*Executrix:* Mary Hazeltine, 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

**JACOBS, MARY E., a/k/a MARY ELIZABETH JACOBS, deceased**

Late of Township of Millcreek, Erie County, Commonwealth of Pennsylvania  
*Executor:* Brian E. Jacobs, c/o Knox Law Firm, 120 W. 10th St., Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**KUZMA, ASHLEY ANN, a/k/a ASHLEY A. KUZMA, a/k/a ASHLEY KUZMA, deceased**

Late of the Township of Millcreek  
*Executor:* John William Kuzma  
*Attorney:* Michael G. Nelson, Esquire, Marsh, Spaeder, Baur, Spaeder & Schaaf, LLP, 300 State Street, Suite 300, Erie, Pennsylvania 16507

**LORANGER, CHARISE, a/k/a CHARISE ANN LORANGER, a/k/a CHARISE A. LORANGER, deceased**

Late of the Township of Greenfield, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Cameron Loranger, 3063 West 11th Street, Apt. 25, Erie, PA 16505  
*Attorney:* James R. Steadman, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**MAILAHN, BRUCE MICHAEL, a/k/a MIKE MAILAHN, deceased**

Late of Millcreek Township, Erie County  
*Executrix:* Marjorie Jane Mailahn, 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

**McCLEARY, RICHARD C., a/k/a RICK McCLEARY, a/k/a RICHARD McCLEARY, deceased**

Late of the City of Erie, County of Erie, State of Pennsylvania  
*Executrix:* Daniel D. McCleary, c/o 337 West 10th Street, Erie, PA 16502  
*Attorneys:* THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

**MILLER, ROMA, deceased**

Late of the Township of Franklin, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Romona Junkins, c/o Gery T. Nietupski, Esquire, 818 State Street, Erie, PA 16501  
*Attorney:* Gery T. Nietupski, Esquire, THE LAW OFFICES OF GERY T. NIETUPSKI, ESQUIRE LLC, 818 State Street, Erie, PA 16501

**MINOR, JAMES E., a/k/a  
JAMES MINOR,  
deceased**

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

*Administratrix:* Susan Minor Melgaard, c/o 504 State Street, Suite 300, Erie, PA 16501

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

**OLEWSKI, SCOTT A.,  
deceased**

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

*Executrix:* Eileen D. Zipp, c/o 2222 West Grandview Blvd., Erie, PA 16506

*Attorney:* Thomas E. Kuhn, Esquire, QUINN, BUSECK, LEEMHUIS, TOOHEY & KROTO, INC., 2222 West Grandview Blvd., Erie, PA 16506

**PAGE, THOMAS JOSEPH, a/k/a  
THOMAS J. PAGE, a/k/a  
THOMAS PAGE, a/k/a  
TOM PAGE,  
deceased**

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

*Administrator:* Christopher S. Page, c/o 504 State Street, Suite 300, Erie, PA 16501

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

**SPADACENE, GINA J.,  
deceased**

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

*Administrator:* Frank Frattolillo, 4343 Allison Avenue, Erie, PA 16506

*Attorney:* Robert C. Brabender, Jr., Esquire, 1314 Griswold Plaza, Erie, PA 16501

**TRUST NOTICES**

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 trustees or attorneys named below:

**SHANNON, SYLVESTER  
MARK, a/k/a MARK SHANNON,  
deceased**

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

*Trustee:* Gladys D. Michalchik

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

**SECOND PUBLICATION**

**BOYD, HELEN MAE, a/k/a  
HELEN M. BOYD,  
deceased**

Late of the City of Erie, County of Erie

*Executrix:* Donald J. Boyd, 3520 Stone Quarry Road, Waterford, Pennsylvania 16441

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

**CARPENTER, CYNTHIA L.,  
deceased**

Late of the Borough of Platea, County of Erie, and Commonwealth of Pennsylvania

*Administrator:* Steven Carpenter, 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

**CLOVER, TERRY L., a/k/a  
TERRY LEE CLOVER,  
deceased**

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

*Executor:* Emmitt E. Clover, Jr., 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

**CUNNINGHAM, ROBIN G.,  
deceased**

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

*Executrix:* Carol A. Eller, c/o James E. Marsh Jr., Esquire, Suite 300, 300 State Street, Erie, PA 16507

*Attorney:* James E. Marsh Jr., Esquire, MARSH, SPAEDER, BAUR, SPAEDER & SCHAFF, LLP., Suite 300, 300 State Street, Erie, PA 16507

**HAFT, PAUL N.,  
deceased**

Late of the Borough of Wesleyville, County of Erie, Commonwealth of Pennsylvania

*Co-Administrators:* Michael Haft, Nicole Haft and Paula Haft, 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

**HAUSMANN, JEAN M.,  
deceased**

Late of the City of Erie

*Executrix:* Margaret J. Wiesniewski, 3305 Schaper Avenue, Erie, PA 16508

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

**JOHNSON, ARTHUR C., JR.,  
a/k/a ARTHUR C. JOHNSON,  
a/k/a ARTHUR JOHNSON, a/k/a  
A C JOHNSON,  
deceased**

Late of Erie, Pennsylvania  
*Administrator:* Arthur C. Johnson,  
III, c/o David W. Bradford, Esq.,  
731 French Street, Erie, PA 16501  
*Attorney:* David W. Bradford,  
Esq., 731 French Street, Erie,  
PA 16501

**LARSEN, ROSE MARIE,  
deceased**

Late of the City of Erie, County  
of Erie  
*Executrix:* Debra Plemmons, c/o  
Barbara J. Welton, Esquire, 2530  
Village Common Drive, Suite B,  
Erie, PA 16506  
*Attorney:* Barbara J. Welton,  
Esquire, 2530 Village Common  
Drive, Suite B, Erie, PA 16506

**LOTZ, CAROLA A., a/k/a  
CAROL ANN LOTZ, a/k/a  
CAROL LOTZ,  
deceased**

Late of the Borough of Girard,  
County of Erie, Commonwealth  
of Pennsylvania  
*Administrator:* Tyler G. Miller,  
1816 Poplar Street, Erie, PA 16502  
*Attorney:* Valerie H. Kuntz, Esq.,  
24 Main St. E., P.O. Box 87,  
Girard, PA 16417

**McCREARY, RONALD E.,  
deceased**

Late of Greene Township, Erie  
County  
*Executrix:* Corinne L. McCreary  
*Attorney:* William J. Kelly, Jr.,  
Esquire, 230 West 6th Street, Suite  
201, Erie, PA 16507

**MITCHELL, NORMAN D.,  
deceased**

Late of the Township of Concord,  
County of Erie, Pennsylvania  
*Executrix:* Pamela Hargraves, c/o  
Thomas J. Ruth, Esq., 224 Maple  
Avenue, Corry, PA 16407  
*Attorney:* Thomas J. Ruth, Esq.,  
224 Maple Avenue, Corry, PA  
16407

**MORRIS, ROSE M.,  
deceased**

Late of Millcreek Township  
*Executor:* Bruce L. Morris, c/o 246  
West 10th Street, Erie, PA 16501  
*Attorney:* Evan E. Adair, Esq., 246  
West 10th Street, Erie, PA 16501

**POST, SHIRLEY J., a/k/a  
SHIRLEY INGHAM POST,  
deceased**

Late of the Township of  
Harborcreek, County of Erie,  
Commonwealth of Pennsylvania  
*Executor:* Gary L. Post, 2815  
Crestview Drive, North East, PA  
16428  
*Attorney:* Valerie H. Kuntz, Esq.,  
24 Main St. E., P.O. Box 87,  
Girard, PA 16417

**SAYRE, THURL G., a/k/a  
THURL GLENN SAYRE,  
deceased**

Late of the Township of  
Harborcreek, Erie County,  
Pennsylvania  
*Co-Executors:* Darlene  
Rzodkiewicz and Raymond Sayre,  
c/o Robert Ward, Esq., 307 French  
Street, Erie, PA 16507  
*Attorney:* Robert Ward, Esq., 307  
French Street, Erie, PA 16507

**SODER, JOSEPH R.,  
deceased**

Late of the City of Erie, County  
of Erie and Commonwealth of  
Pennsylvania  
*Executor:* Mark Krysiak, 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

**THIRD PUBLICATION**

**BANASZEK, ROSE K.,  
deceased**

Late of Fairview Township,  
County of Erie, PA  
*Executor:* James Banaszek, 4543  
Darcie Dr., Erie, PA 16506  
*Attorney:* None

**BAX, WILLIS G.,  
deceased**

Late of the Township of  
Fairview, County of Erie, and  
Commonwealth of Pennsylvania  
*Executor:* Gary D. Bax, 2525 West  
26th Street, Erie, PA 16506  
*Attorney:* Gary D. Bax, Attorney  
at Law, 2525 West 26th Street,  
Erie, PA 16506

**BORECKY, GLORIA WESS,  
a/k/a GLORIA W. BORECKY,  
deceased**

Late of Fairview  
*Executor:* Carl D. Borecky, 5700  
Kell Drive, Fairview, PA 16415  
*Attorney:* Heidi Rai Stewart,  
Esquire, Houston Harbaugh,  
PC, Three Gateway Center, 401  
Liberty Avenue, 22nd Floor,  
Pittsburgh, PA 15222-1005

**BRINAGER, WILLIAM M.,  
a/k/a WILLIAM BRINAGER  
SR., a/k/a WILLIAM MANLON  
BRINAGER,  
deceased**

Late of Albion, County of Erie and  
Commonwealth of Pennsylvania  
*Executor:* William M. Brinager  
Jr., c/o Norman A. Stark, Esq.,  
Suite 300, 300 State Street, Erie,  
PA 16507  
*Attorney:* Norman A. Stark, Esq.,  
MARSH, SPAEDER, BAUR,  
SPAEDER & SCHAAF, LLP,  
Suite 300, 300 State Street, Erie,  
PA 16507

**BROSIOUS, SCOTT A.,  
deceased**

Late of the City of Erie, Erie  
County, Pennsylvania  
*Administrator:* Craig A. Brosius,  
c/o 2580 West 8th Street, Erie,  
Pennsylvania 16505  
*Attorney:* Ralph R. Riehl, III,  
Esquire, 2580 West 8th Street,  
Erie, Pennsylvania 16505

**CAPELA, NATHAN P.,  
deceased**

Late of Township of Wayne  
*Administratrix:* Patricia J. Capela,  
16909 Route 89, Corry, PA 16407  
*Attorney:* Michael A. Fetzner,  
Esquire, Knox McLaughlin  
Gornall & Sennett, P.C., 120 West  
Tenth Street, Erie, PA 16501

**FUNARO, LIVIA A., a/k/a  
LIL FUNARO, a/k/a  
LIVIA FUNARO,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Co-Executors:* Anthony A. Funaro and Vince Jean Bartone, 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

**KEMPISTY, ROBERT S., a/k/a  
ROBERT STEPHEN KEMPISTY,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Timothy R. Kempisty, 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

**KOLB, RONALD F.,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Administrator:* Mary P. Kolb, 3302 West Lake Rd., Apt. #109, Erie, PA 16505  
*Attorney:* None

**SCHEPPNER, MATTHEW  
DOUGLAS,  
deceased**

Late of the City of Erie  
*Administrator:* Deborah E. Bender  
*Attorney:* Steven E. George, Esquire, George Estate and Family Law, 305 West 6th Street, Erie, PA 16507

**SMITH, DANIEL E.,  
deceased**

Late of the City of Erie, County of Erie  
*Executor:* Anita L. Smith, c/o Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506  
*Attorney:* Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506

**VOGEL, SUSAN LYNN, a/k/a  
SUSAN L. VOGEL, a/k/a  
SUSAN VOGEL,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Administratrix:* Amy L. Vogel, c/o Anthony R. Himes, Esq., 246 W. 10th Street, Erie, PA 16501  
*Attorney:* Anthony R. Himes, Esq., 246 W. 10th Street, Erie, PA 16501

**WITTMANN, EDWARD P.,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Eric P. Wittmann  
*Attorney:* David J. Rhodes, Esquire, ELDERKIN LAW FIRM, 456 West Sixth Street, Erie, PA 16507



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**CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS**

**WILLIAM S. SPEROS** .....814-870-7764  
MacDonald Illig Jones & Britton LLP  
100 State Street, Suite 700  
Erie, PA 16507 ..... *wsperos@mijb.com*

**New address**

**GREGORY A. KARLE**  
**GERALD J. VILLELLA**  
731 French Street  
Erie, PA 16501

**New email address**

**TYLER J. ANTOLIK**..... *tyler.antolik@logisticsplus.net*



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