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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, JULY 5, 2021

Fourth of July Holiday
ECBA Office Closed
Erie County and Federal Courthouses Closed

TUESDAY, JULY 6, 2021

Position Statement Policy Meeting
Noon
ECBA Headquarters live (must RSVP*)
or via Zoom

TUESDAY, JULY 13, 2021

Young Lawyers Division Meeting
Noon
ECBA Headquarters live (must RSVP*)
or via Zoom

WEDNESDAY, JULY 14, 2021

Chief Justice Samuel J. Roberts Scholarship
Committee Interviews
8:30 a.m.
The William J. Schaaf & Mary B. Schaaf
Education Center live

THURSDAY, JULY 15, 2021

Senior Lawyers Division Special Event
Luncheon at the Erie Yacht Club
Noon

TUESDAY, JULY 20, 2021

Solo/Small Firm Section Meeting
Noon
ECBA Headquarters live (must RSVP*)
or via Zoom

WEDNESDAY, JULY 21, 2021

AKT Kid Konnection Event
5:30 - 7:00 p.m.
Location to be decided

MONDAY, JULY 26, 2021

ECBA Board of Directors Meeting
Noon
ECBA Headquarters live (must RSVP) or via
Zoom

THURSDAY, JULY 29, 2021

Defense Bar Meeting
4:00 p.m.
ECBA Headquarters live (must RSVP) or via
Zoom

*The ECBA is open for meetings.
To attend in person, please RSVP to
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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
MOTION COURT DATES FOR JUDGE THOMAS P. AGRESTI
ERIE AND PITTSBURGH DIVISION CASES
JULY 2021 NOTICE

The following is a list of **July 2021, August 2021, and September 2021** motion court dates and times to be used for the scheduling of motions pursuant to *Local Rule 9013-5(a)* before **Judge Thomas P. Agresti** in the Erie and Pittsburgh Divisions of the Court. The use of these dates for scheduling motions consistent with the requirements of *Local Rule 9013-5(a)* and Judge Agresti's *Procedure B(1)-(3)* summarized below and on Judge Agresti's webpage at: www.pawb.uscourts.gov.

The motions will now be heard by the Zoom Video Conference Application. When using the below self-scheduling dates to schedule a matter please include the following Zoom Meeting link in your Notice: <https://www.zoomgov.com/j/16021303488>, or alternatively, to attend and use the following Meeting ID: 160 2130 3488. To join the Zoom hearing please initiate and use the link 15 minutes prior to your scheduled hearing time. All Attorneys and Parties may only appear via the Zoom Video Conference Application and must comply with the Amended Notice of Temporary Modification of Appearance Procedures Before Judge Thomas P. Agresti, as updated on June 10, 2020.

Counsel for a moving party shall select one of the following dates and times for matters subject to the "self-scheduling" provisions of the *Local Bankruptcy Rules* and the Judge's procedures, insert same on the notice of hearing for the motion, and serve the notice on all respondents, trustee(s) and parties in interest. Where a particular type of motion is listed at a designated time, filers shall utilize that time, *only*, for the indicated motions(s) *unless*: (a) special arrangements have been approved in advance by the Court, or, (b) another motion in the same bankruptcy case has already been set for hearing at a different time and the moving party chooses to use the same date and time as the previously scheduled matter.

SCHEDULE CHAPTERS 13 & 12 MOTIONS ON:

Select the following times, EXCEPT for the specific matters to be scheduled at 11:30 a.m.:

Wednesday, July 14, 2021	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Wednesday, August 11, 2021	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Friday, September 10, 2021	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:30 a.m.:	Ch. 13 Sale, Financing and Extend/Impose Stay & Ch. 12 matters

SCHEDULE CHAPTERS 11 & 7 MOTIONS ON:

Select the following times, EXCEPT for Ch. 7 Motions to Extend/Impose Stay scheduled only at 11:00 a.m., and, all sale motions only at 11:30 a.m.:

Thursday, July 8, 2021*	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Tuesday, July 13, 2021	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Thursday, July 29, 2021	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters
Thursday, August 19, 2021	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters,
Thursday, September 2, 2021		including all Ch. 7 Motions to Extend/Impose Stay
Thursday, September 23, 2021	11:30 a.m.:	Ch. 11 and 7 Sale Motions at this time, only

* July 8th is no longer available. Tuesday, July 13, 2021 has been added.

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

Michael R. Rhodes
Clerk of Court

July 2

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PATRICK LEE, Plaintiff

v.

**MURRAY WAKEMAN and, EURO LINK LOGISTIC,
Defendants & Third Party Plaintiffs**

v.

**TRIPLE SUPPLY, LIMITED LIABILITY COMPANY and
FRANKLIN M. DAVILLA, Third Party Defendants**

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
Case No. 1:19-cv-0055-RAL

OPINION

I. Introduction

This personal injury action arises out of an accident involving three commercial tractor trailers traveling one behind the other on Interstate 90 in Erie County, Pennsylvania. Plaintiff Patrick Lee, the driver of the second vehicle in the line, asserts negligence claims against Defendant Murray Wakeman, the operator of the truck that collided with the rear of his truck, as well as against Defendant/Third-Party Defendant Frank DaVilla, the driver of the lead truck, who suddenly decelerated or stopped in the highway. Lee also asserts claims against the employer of each driver based on theories of *respondeat superior* and negligent entrustment.

DaVilla and his employer, Triple D Supply, LLC, have filed a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56, arguing that the record does not support liability against either of them and that the Court should find Wakeman negligent as a matter of law. Because genuine issues of material fact remain regarding each of these assertions, the Court must deny the motion.

II. Procedural History

Lee commenced this action against Wakeman and his employer, Euro Link Logistic, in the Court of Common Pleas of Erie County, Pennsylvania (Civil Action No. 2019-10429). Wakeman and Euro Link Logistic filed a timely notice of removal of the action to this Court based on diversity jurisdiction under 28 U.S.C. § 1332. ECF No. 1-1, p. 4. Wakeman and Euro Link Logistic later filed a third-party complaint for contribution and indemnity against DaVilla and Triple D based on allegations that DaVilla's "sudden, unexpected and abrupt application of his brakes" was unreasonable and contributed to the accident. ECF No. 45, ¶¶ 12, 13. Thereafter, Lee filed his First Amended Complaint, which asserted direct liability against DaVilla and Triple D. ECF Nos. 50, 52, 53. Arch Insurance Company later intervened as a plaintiff based upon its worker's compensation lien and subrogation interest. ECF Nos. 71, 77.

DaVilla and Triple D filed the pending motion for summary judgment with supporting documents on November 30, 2020. ECF Nos. 89-91. Euro Link Logistic and Wakeman have responded to the motion, ECF Nos. 93-95, as has Lee, ECF Nos. 97-100, 102, joined by Arch Insurance. ECF No. 101. DaVilla and Triple D filed a reply brief. ECF No. 103. Lee submitted a sur-reply. ECF No. 108. The Court conducted oral argument on the motion on May 25, 2021. ECF No. 110. The motion is ripe for disposition.

III. Material Facts

The following factual assertions are taken from the parties' respective concise statements of material fact and the exhibits thereto. Disputed facts and conflicting deposition testimony are noted.

The accident giving rise to this case occurred on February 12, 2018, at approximately 1:42 p.m. Immediately prior to the accident, DaVilla, Lee, and Wakeman were driving their respective commercial tractor trailers in the right lane of the eastbound lanes of Interstate 90 in Erie County, Pennsylvania. DaVilla's vehicle was in the lead position, followed by Lee's truck. Wakeman's vehicle was following behind Lee. This area of Interstate 90 is a four-lane highway with east and westbound lanes separated by a grassy median. After the accident, Pennsylvania State Trooper Jarrett Hrynyszak arrived on the scene and took witness statements from each driver, a non-party witness Kimberly Snyder, and another witness which he included in his police report.

A. DaVilla's Description of the Accident

DaVilla testified at his deposition that his truck was traveling on cruise control at an approximate speed of fifty-seven miles per hour when he observed a dog in the median of the highway, about 100 feet ahead of him. He further testified that he reacted to the presence of the dog by tapping his brakes to turn off the cruise control, engaging his four-way flashers, and beginning to slow down. He asserted that he continued to watch the dog until he saw it jump over the guardrail. According to DaVilla, a person later identified as Kimberly Snyder was following "right behind" the dog. In response to this development, DaVilla locked up his rear brakes and caused his truck to enter a "straight skid, controlled skid for a short time." DaVilla then let off his brakes to release the skid. As he did so, a car operated by a nonparty was traveling next to him in the left/passing lane. According to DaVilla, he had slowed his vehicle to approximately thirty to thirty-five miles per hour when Lee's truck struck his truck from behind. Following this "first impact," he brought his vehicle to a complete stop. As DaVilla prepared to get out of his truck, he felt a second impact to the rear of his truck caused by Wakeman's truck colliding with Lee's truck and pushing or propelling it into the rear of his vehicle for a second time. DaVilla's statement to Trooper Hrynyszak on the day of the accident was materially consistent with his deposition testimony.

B. Lee's Description of the Accident

Lee testified that his truck was approximately one-quarter mile behind DaVilla's vehicle and traveling at approximately sixty-two to sixty-five miles per hour when he observed DaVilla's "brake lights come on." Lee did not see what caused DaVilla to hit his brakes, but he did observe "the back of his trailer started jumping," which indicated to Lee that DaVilla was either "hard braking, or he has an empty trailer and he's applying his brakes." This prompted Lee to downshift to slow his truck and ultimately bring it to a complete stop approximately six feet behind DaVilla's vehicle. Thus, contrary to DaVilla's testimony, Lee asserts that he did not collide with the rear of DaVilla's truck. In other words, he disputes the "first impact" described by DaVilla. According to Lee, approximately thirty seconds after he had stopped his truck behind DaVilla's vehicle, he observed Wakeman's truck in his mirror approaching at a high rate of speed. Wakeman's truck collided with the back of Lee's trailer, pushing the cab of Lee's truck into the rear of DaVilla's trailer. The statement Lee provided to Hrynyszak on the day of the accident was consistent with his deposition

testimony, except that Lee told Hrynyszak that he observed a woman in the median prior to the impact.

C. Wakeman's Description of the Accident

Wakeman testified that he had been following Lee's truck for approximately half an hour before the accident. During that time, he had attempted to pass Lee once or twice. As he again approached the rear of Lee's vehicle, he moved into the left lane to pass Lee. As the nose of Wakeman's tractor approached the front of Lee's trailer, he saw another truck in front of Lee and decided to slow down and return to the right lane. Wakeman checked his mirror to see whether it was clear and started moving into the right lane, at which point he believes he saw something in his peripheral vision. When he again looked ahead, he observed Lee's truck stopped in the highway. Wakeman estimates that his truck was within forty feet (or a half-truck length) of Lee's truck when he looked ahead and saw it. Three seconds or less later, his truck collided with the rear of Lee's trailer at a speed of approximately sixty-three miles per hour. Wakeman said it looked and felt like Lee was stopped when he hit him. Trooper Hrynyszak issued Wakeman a citation for violating Section 3310(b) of the Pennsylvania Motor Vehicle Code. ECF No. 90-1, p. 4.¹

D. Kimberly Snyder's Description of the Accident

Kimberly Snyder witnessed the accident. She was driving west on I-90 when she saw a dog and pulled her car over to the right westbound shoulder. She exited her vehicle and then saw the dog run across the median and get hit by a semi-truck. She witnessed the accident at issue shortly thereafter while she was standing behind her car on the shoulder. She could not tell which vehicles collided or in what order. Afterwards, she walked down the shoulder of the westbound lanes along the median to see what had happened. She testified, however, that she never entered the grassy area of the median. Her deposition is mostly consistent with the information she reported to Hrynyszak as related in his report of her telephone interview the day after the accident, but Hrynyszak's report does record that she told him that she went into the median area to observe the scene after the crash.

E. Disputed Facts

As the foregoing summaries reflect, conflicts exist among the versions of the accidents related by the three drivers and Ms. Snyder. The conflicts include whether the dog alone approached or entered the eastbound lanes of I-90 or whether Snyder followed closely behind the dog, indicting a risk that she too might enter the eastbound lanes. Snyder testified that she never even entered the grassy median, let alone crossed the median and approached the eastbound lanes. In contrast, DaVilla testified that when the dog jumped the guardrail and entered the eastbound lanes, Snyder was "right behind" it.

Conflicting testimony also exists regarding the crash itself. For example, Lee and DaVilla disagree regarding the first impact. Lee testified that he had completely stopped his truck

¹ "(a) General rule. — The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway.

(b) Combinations of vehicles and trucks. — The driver of any motor vehicle drawing another vehicle or of any truck when traveling upon a roadway outside of an urban district and following a motor vehicle drawing another vehicle or following a truck shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy the space without danger, except that this subsection does not prevent a motor vehicle drawing another vehicle or prevent a truck from overtaking and passing any vehicle or combination of vehicles." 75 Pa. C.S.A. § 3310.

approximately six feet behind DaVilla's fully stopped truck when Wakeman rear-ended his truck and pushed it into DaVilla's truck. In contrast, DaVilla testified that Lee initially collided with him while he was slowing down but still moving at a speed of 30 to 35 miles per hour. DaVilla said that shortly after this first impact, he felt another collision with his truck.

DaVilla and Wakeman's testimony also conflicts regarding matters of timing and distances. Lee testified that approximately 30 seconds elapsed between when he stopped his truck and when Wakeman struck him from behind. In contrast, Wakeman said he only saw Lee's truck stopped in front of him for less than three seconds before the impact. As to distance, Lee testified that he first saw DaVilla begin slowing down a quarter of a mile ahead of him. In contrast, Wakeman said the nose of his tractor was just at the front of Lee's trailer when he backed off his passing maneuver and began merging into the right lane behind Lee, leaving only forty feet between his truck Lee's truck when he observed it stopped in the highway.

IV. Standard of Review

Federal Rule of Civil Procedure 56(a) requires the court to enter summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). Under this standard "the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48, 106 S. Ct. 2505, 91 L.Ed.2d 202 (1986). A disputed fact is "material" if proof of its existence or nonexistence would affect the outcome of the case under applicable substantive law. *Anderson*, 477 U.S. at 248, 106 S. Ct. 2505; *Gray v. York Newspapers, Inc.*, 957 F.2d 1070, 1078 (3d Cir. 1992). An issue of material fact is "genuine" if the evidence is such that a reasonable jury could return a verdict for the nonmoving party. *Anderson*, 477 U.S. at 257, 106 S. Ct. 2505; *Brenner v. Local 514, United Bhd. of Carpenters and Joiners of Am.*, 927 F.2d 1283, 1287-88 (3d Cir. 1991).

When determining whether a genuine issue of material fact remains for trial, the court must view the record and all reasonable inferences to be drawn therefrom in favor of the nonmoving party. *Moore v. Tartler*, 986 F.2d 682 (3d Cir. 1993); *Clement v. Consol. Rail Corp.*, 963 F.2d 599, 600 (3d Cir. 1992); *White v. Westinghouse Electric Co.*, 862 F.2d 56, 59 (3d Cir. 1988). To avoid summary judgment, however, the nonmoving party may not rest on the unsubstantiated allegations of his or her pleadings. Instead, once the movant satisfies its burden of identifying evidence that demonstrates the absence of a genuine issue of material fact, the nonmoving party must go beyond his pleadings with affidavits, depositions, answers to interrogatories or other record evidence to demonstrate specific material facts that give rise to a genuine issue. *Celotex Corp. v. Catrett*, 477 U.S. 317, 324, 106 S. Ct. 2548, 91 L.Ed.2d 265 (1986).

Further, under Rule 56, a defendant may seek summary judgment by pointing to the absence of a genuine fact issue on one or more essential claim elements. The Rule mandates summary judgment if the plaintiff then fails to make a sufficient showing on each of those elements. When Rule 56 shifts the burden of production to the nonmoving party, "a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." *Celotex*, 477 U.S. at 323, 106 S. Ct. 2548. *See also Harter v. G.A.F. Corp.*, 967 F.2d 846, 851 (3d Cir. 1992).

V. Analysis²

A. Genuine Issues of Material Fact Preclude Summary Judgment in Favor of DaVilla and Triple D Supply.

DaVilla and Triple D argue that they are entitled to judgment as a matter of law because the record cannot support a jury's finding that DaVilla was negligent in the operation of his vehicle or that any negligence on his part caused or contributed to the accident and Lee's injuries. To hold a defendant liable for negligence, the plaintiff must prove the following four elements: (1) a legally recognized duty that the defendant conform to a standard of care; (2) the defendant breached that duty; (3) causation between the conduct and the resulting injury; and (4) actual damage to the plaintiff. *See Truax v. Roulhac*, 2015 Pa. Super. 217, 126 A.3d 991, 997 (Pa. Super. Ct. 2015). The existence of a legal duty is a question of law for the court to decide. *See R.W. v. Manzek*, 585 Pa. 335, 345, 888 A.2d 740, 746 (Pa. 2005). Whether the defendant acted reasonably under the circumstances is normally a question for the jury. *See Ford v. Jeffries*, 474 Pa. 588, 595, 397 A.2d 111, 114 (Pa. 1977). Similarly, "causation is normally a question of fact for the jury...." *Hamil v. Bashline*, 481 Pa. 256, 266, 392 A.2d 1280, 1285 (Pa. 1978).

The existence of DaVilla's duty to use reasonable care in the operation of his vehicle is not at issue. Wakeman argues that DaVilla breached this duty when he stopped suddenly on the highway in response to the presence of a dog. ECF No. 93, p. 5. In support of his position, Wakeman cites *Chadwick v. Popadick*, 390 Pa. 511, 515 (Pa. 1957), wherein the Pennsylvania Supreme Court stated that, "[t]he driver of the leading car in a procession of 3 or 4 cars is charged with the responsibility of driving in a manner which will avoid a telescopic crash in the event he should suddenly stop." In *Chadwick*, four cars were driving along a highway when Popadick — driving the car in the second position — passed the lead car and then merged into the lane directly in front of Chadwick's car. *Id.* at 513. After traveling about 150 feet, Popadick stopped suddenly to admire deer grazing in a field beside the road. *Id.* Chadwick — now in the second position — applied his brakes, but before he could stop, Chadwick was struck from behind by Simones — the car in the third position. *Id.* The trial court ruled as a matter of law that Popadick was not negligent, but the Pennsylvania Supreme Court reversed, finding that under the circumstances this was a question for the jury. *Id.* at 513-14. The Court reasoned that "Popadick knew that he was a link in a four-link traffic chain. So long as he remained an integral part of that travelling unit, he knew or should know that any unusual action on his part would affect the rest of the chain." *Id.*, 514. Popadick's brake lights were the only signal that he was stopping, and this was insufficient to warn Chadwick in the second position and especially Simones in the third (who could not see Popadick's brake lights). *Id.* Pennsylvania courts have since reiterated that "[u]nder certain circumstances, an abrupt stop by a forward vehicle, which allows neither sufficient time nor sufficient distance for a vehicle in the rear to stop, may render the driver of the forward vehicle negligent or contributorily negligent." *Toff v. Rohde*, 208 Pa. Super. 411, 413-14, 222 A.2d 434 (Pa. Super. Ct. 1966). In *Toff*, the Pennsylvania

² The parties apparently agree that Pennsylvania law applies to this diversity action, as they cite exclusively Pennsylvania law or federal cases applying such law in their respective briefs. *See Henkel Corp. v. Hartford Accident & Indemnity Co.*, 399 F.Supp.2d 607, 611 (E.D. Pa. 2005) ("If the parties have agreed to the applicable law, that agreed-upon law shall generally be given effect.") (citations omitted).

Superior Court ordered a new trial when it determined that the trial court had erred in not instructing the jury “as to plaintiff’s contributory negligence” when “[t]he lines of cars in advance of plaintiff came to a halt, and [plaintiff] hastily applied his brakes” and the “driver of the third automobile in the chain, immediately struck the rear of plaintiff’s car.” *Id.* at 413. Based on the foregoing Pennsylvania case law, DaVilla had a duty to the drivers of vehicles following him to exercise reasonable care in braking and stopping on the highway.

DaVilla points out that Wakeman’s collision with the rear of Lee’s truck provides compelling support for a finding that Wakeman failed to operate his truck in a manner that would have allowed him to stop within the assured clear distance ahead of him. DaVilla is correct that the Pennsylvania Motor Vehicle Code makes it unlawful to operate a motor vehicle “at a speed greater than will permit the driver to bring his vehicle to a stop within the assured clear distance ahead.” 75 Pa.C.S. § 3361.

A finding that Wakeman violated this obligation, however, does not preclude a finding that DaVilla also acted negligently and that his negligence contributed to the accident. *See Bongard v. Korn*, 1993 WL 120330 (E.D. Pa. Apr. 16, 1993). Indeed, Michael O’Dell — DaVilla’s highway safety expert — did not testify that Wakeman was the sole cause of the accident, but that he was the “primary cause” and that his failures to follow the appropriate standard of care “were contributing causes of the subject crash.” Like this case, the dispute in *Bongard* arose out of an accident that occurred when the plaintiff stopped her vehicle suddenly in response to traffic conditions and was rear-ended by the defendant. The defendant argued that the plaintiff hit the cars in front of her first, which “shortened” the assured clear distance in which the defendant had to stop his car.³ *Id.* at *5. The jury found the plaintiff 40% negligent and the defendant 60% negligent. The district court denied the defendant’s motion for judgment as a matter of law. The court held that the testimony and physical evidence adduced at trial were sufficient for a jury to find that the lead driver’s “actions in stopping her vehicle were negligent” and “may have contributed causally to the collision...”. *Id.* at *6.

In the present case, the record could support a jury’s finding that DaVilla knew or should have known that he was one of multiple vehicles traveling in succession on the highway. The testimony is conflicting regarding whether DaVilla reduced his speed reasonably in response to conditions, or unnecessarily initiated an emergency stop with knowledge that other vehicles were following close behind. Material issues of fact also exist regarding the relative position of Snyder prior to DaVilla’s deceleration. This is likely to be an important factor for the jury to consider in evaluating the reasonableness of DaVilla actions. As in *Bongard*, the jury may reasonably conclude that DaVilla’s actions were negligent and contributed to the accident. As the *Bongard* court stated:

“[T]he manner in which an individual stops when faced with the necessity of bringing an automobile to a stop must be reasonable. Individuals breaking to [sic] early, too late, or too hard may act unreasonably and may therefore be negligent or contributorily negligent.”

Id. at *6.

³ The Court acknowledges that the logic of this assertion is questionable and arguably inconsistent with the “assured clear distance” rule, discussed *infra*.

DaVilla also argues that the “sudden emergency doctrine” applies to absolve him of any potential liability in this action.⁴ The sudden emergency doctrine “recognizes that a driver who, although driving in a prudent manner, is confronted with a sudden or unexpected event which leaves little or no time to apprehend a situation and act accordingly should not be subject to liability simply because another perhaps more prudent course of action was available.” *Levey v. DeNardo*, 555 Pa. 514, 518-19, 725 A.2d 733, 735-36 (Pa. 1999). The sudden emergency doctrine is available where four requirements are met: the individual “suddenly and unexpectedly finds himself confronted with a perilous situation[, (2)] that permits no opportunity to assess the danger[, (3) if he] respond[s] appropriately[, and (4)]...proves that he did not create the emergency.” *Drew v. Work*, 95 A.3d 324, 334, 2014 Pa. Super. 137 (Pa. Super. Ct. 2014) (alterations in original) (quoting *McKee by McKee v. Evans*, 380 Pa. Super. 120, 551 A.2d 260, 272-73 (Pa. Super. Ct. 1988) (en banc)). This doctrine does not apply “if that person was himself driving carelessly or recklessly.” *Levey*, 555 Pa. at 518-19. The sudden emergency doctrine does not eliminate a party’s duty to act with reasonable care, but instead it relaxes a party’s standard of care from the “usual degree of care” to “an honest exercise of judgment” for a driver “confronted with a perilous situation requiring a quick response in order to avoid a collision.” *Levey*, 555 Pa. at 518-19 (quoting *Lockhart v. List*, 542 Pa. 141, 665 A.2d 1176, 1179 (Pa. 1995)). *See also Graham v. Check*, 243 A.3d 153, 168 (Pa. 2020) (“the doctrine of sudden emergency does not offer a defense.”). This is why even where the Court concludes that a defendant is entitled to a jury instruction on the sudden emergency doctrine, it does not necessarily follow that the defendant is entitled to summary judgment. The existence, nature, and severity of the emergency situation confronting the driver are relevant factors in determining whether he or she acted appropriately under the circumstances.

Here, disputed issues of fact affect the application of these factors, including the nature of the emergency confronted by DaVilla. A jury may reasonably evaluate a driver’s response to a person’s presence in the immediate area of a highway differently than that of an animal. As noted, the location of Snyder relative to the eastbound lanes of the highway is genuinely in dispute. DaVilla’s testimony places Snyder “right behind” the dog as it jumped the guardrail between the median and the eastbound lanes. In contrast, Snyder testified that she never entered the median and remained on the westbound shoulder at the time of the accident. O’Dell acknowledged in his deposition that a driver faced with only a dog in the road should hit the dog if the alternative is an emergency stop that risks a loss of control, collision, or other accident. Indeed, in rendering his opinion that DaVilla acted reasonably under the circumstances, O’Dell assumed the accuracy of DaVilla’s testimony concerning the location of Snyder as a factor relevant to evaluating his actions. However, DaVilla’s testimony on that issue is in dispute such that a jury may find that Snyder’s distance from the eastbound lanes of I-90 did not present a risk of her entering those lanes. Under Pennsylvania law, a jury may also find that DaVilla’s response to the risk of hitting an animal was not reasonable and was a contributing factor to the accident. “Where the evidence leaves some doubt as to whether an emergency situation existed...it is incumbent upon the trial court to submit the issue to the jury for its determination.” *Drew*, 95 A.3d at 330 (quoting *Buchecker v. Reading Co.*, 271 Pa. Super. 35, 412 A.2d 147, 155 (Pa. Super. Ct. 1979)).

⁴ Wakeman also invokes the sudden emergency doctrine as a defense.

Because Pennsylvania law and the present record require that considerations of the sudden emergency doctrine and its effect upon the standard of care be left to the jury, DaVilla and Triple D's motion for summary judgment on the issue of liability must be denied.

B. The Record Does Not Permit the Entry of Summary Judgment Against Wakeman On the Issue of Negligence Per Se.

DaVilla and Triple D's motion also requests that the Court find Wakeman negligent as a matter of law. While the Court agrees that the record provides strong, if not compelling support, for such a finding, the record is not conclusive of the issue such that the Court may remove it from the jury's consideration.

DaVilla and Triple D argue that the record establishes that Wakeman was negligent *per se* in the operation of his tractor trailer. Pennsylvania courts have defined negligence *per se* as "conduct, whether of act or omission, which may be declared and treated as negligence without any argument or proof as to the particular surrounding circumstances." *Ramalingam v. Keller Williams Realty Grp., Inc.*, 121 A.3d 1034, 1042 (Pa. Super. Ct. 2015) (quoting *Schemberg v. Smicherko*, 85 A.3d 1071, 1073 (Pa. Super. Ct. 2014)). Negligence *per se* is not a distinct cause of action but rather an evidentiary presumption that a defendant's violation of a legislative or regulatory enactment constitutes proof of a breach of duty. *Deitrick v. Costa*, 2015 WL 1606641, at *12 (M.D. Pa. Apr. 9, 2015) (citing *Daniel Boone Area Sch. Dist. v. Lehman Bros.*, 187 F. Supp. 2d 400, 407 (W.D. Pa. 2002) ("The effect of such a rule is to stamp the defendants conduct as negligence, with all the effects of common law negligence, but with no greater effect.")). "To establish the evidentiary presumption, ... the statute or regulation must clearly apply to the conduct of the defendant..." *Deitrick*, 2015 WL 1606641, at *12 (citing *Cecile Indus., Inc. v. United States*, 793 F.2d 97, 99 (3d Cir. 1986)). Although the concept of negligence *per se* establishes both duty and the breach of duty elements of the claim, it does not relieve the plaintiff of the burden of establishing causation. *Id.* (citing *Cabiroy v. Scipione*, 767 A.2d 1078, 1079 (Pa. Super. Ct. 2001)).

DaVilla and Triple D argue that Wakeman was negligent *per se* because he "follow[ed] another vehicle more closely than ... reasonable and prudent" given the circumstances as prescribed in 75 Pa.C.S. § 3310(a), and operated his truck "a speed greater than will permit [him] to bring his vehicle to a stop with the assured clear distance ahead" in violation of 75 Pa.C.S. § 3361. ECF No. 89, pp. 8-10. In fact, Trooper Hrynyszak issued a citation to DaVilla for violating 75 Pa.C.S. § 3310(b). Subsection (b) of § 3310 is similar in language to subsection (a) except that it applies specifically to trucks and vehicles hauling other vehicles.⁵ DaVilla pled guilty to the citation and paid the associated fine. Unlike in Pennsylvania state court, these facts are likely to be admissible at trial as evidence of DaVilla's culpability. *See Malantonio v. Boyle*, 2017 WL 633997, at *2 (E.D. Pa. Feb. 16, 2017) (holding that the Pennsylvania state procedural rule that pleas of guilty to traffic citations are inadmissible does not apply in a federal diversity action, and under the Federal Rules of Evidence, the plea of guilty is admissible) (citing *Rain v. Pavkov*, 357 F.2d 506, 509 (3d Cir. 1962)).

The Pennsylvania Supreme Court has held that for violation of a statute to establish

⁵ Although DaVilla and Triple D rely on § 3361 as the statutory basis for their negligence *per se* argument and Trooper Hrynyszak cited Wakeman for violating § 3310(b), the substantive obligations imposed by each are analogous in this circumstance such that the negligence *per se* analysis is the same for each.

negligence *per se*, that statute "would have to be so specific as to leave little question that a person or entity found in violation of it deviated from a reasonable standard of care." *Shamnoski v. PG Energy Div. of S. Union Co.*, 858 A.2d 589 (Pa. 2004). A statute does not support a finding of negligence *per se* where it "essentially sets forth a traditional reasonable man standard" without providing additional guidance on the specified conduct. *Id.* For example, Pennsylvania courts have held that a violation of 75 Pa. C.S. § 3714(a) — "Any person who drives a vehicle in careless disregard for the safety of persons or property is guilty of careless driving." — cannot support a charge of negligence *per se* because "[t]his statute merely recites general negligence principles and a charge related thereto would serve no purpose other than to confuse the jury." *Drew*, 95 A.3d at 338.

Here, DaVilla and Triple D cannot rely on a violation of 75 Pa. C.S. § 3310(a) to establish Wakeman's negligence *per se* because this provision, which prohibits "follow[ing] another vehicle more closely than is reasonable and prudent," merely "restate[s] the traditional reasonable man standard." *Wendt v. Bussard*, 2020 WL 2850599, at *4 (M.D. Pa. June 2, 2020) (citing *Phillips v. Lock*, 86 A.3d 906, 917, 918 n. 10 (Pa. Super. Ct. 2014)). The second statute upon which DaVilla and Triple D rely, 75 Pa. C.S. § 3361, includes multiple clauses. The first clause, which prohibits driving "a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing," merely restates the general standard of care and therefore lacks standards sufficient to support a negligence *per se* claim. *Wendt*, 2020 WL 2850599, at *3. In contrast, the second clause of the statute, which states the assured clear distance rule, is sufficiently specific that it may in an appropriate case support a claim for negligence *per se*. *Id.* at *4 (denying motion to dismiss) (citation omitted).

Having concluded that the assured clear distance rule codified in 75 Pa. C.S. § 3361 can support a negligence *per se* claim, the question remains whether the record establishes that claim against Wakeman as a matter of law. In appropriate cases, courts have not hesitated to so hold. In *Smith v. Wells*, for example, the Pennsylvania Superior Court reversed the trial court decision refusing to enter judgment against the defendant as a matter of law in a rear-end collision case. 212 A.3d 554, 555-56 (Pa. Super. Ct. 2019). In that case, the defendant admitted that while driving on the highway, he "didn't stop quick enough ... and rear-ended the car in front of" him. *Id.* Based on this admission, the Superior Court held that the defendant was negligent *per se* for violating § 3361's assured clear distance rule and ordered a new trial on causation and damages. *Id.* The court reasoned that, "[i]f everyone else driving on the highway left themselves enough distance and time to bring their vehicles safely to a halt, the only logical conclusion is that [the defendant] did not, and he therefore acted unreasonably." *Id.* at 559.

Smith is distinguishable from this case, however, because in that case the defendant "claimed no sudden emergency or any other affirmative defense." *Id.* at 560. The court noted that a driver may defend a claim of negligence *per se* "by pleading and proving an involuntary violation of the statute." *Id.* at 560 n. 2 (citing *Bumbarger v. Kaminsky*, 311 Pa. Super. 177, 457 A.2d 552, 555 (Pa. Super. Ct. 1983); W. Prosser, LAW OF TORTS § 36 at 200 (4th ed. 1971)). Here, Wakeman has demonstrated a genuine dispute of material fact over whether he faced a sudden emergency in response to DaVilla's possible sudden braking. Because of this, the Court cannot find DaVilla negligent *per se* at this juncture.

Wakeman's invocation of the sudden emergency doctrine based on the sudden deceleration or stopping of the vehicles in front of him appears somewhat at odds with the assured clear distance rule. The rule contemplates that Wakeman allow sufficient following distance between his vehicle and Lee's vehicle to stop within his assured clear distance ahead. Thus, whether Lee decelerated or stopped suddenly, Wakeman arguably should have been able to stop his truck before colliding with the rear of Lee's truck. Nevertheless, Pennsylvania caselaw makes clear that the sudden emergency doctrine and the assured clear distance rule are not incompatible in all circumstances. A sudden emergency may contribute to or cause a driver's inability to avoid a rear end collision with another vehicle.

"[A]lthough generally it may be error to instruct a jury as to both the assured clear distance rule and the sudden emergency doctrine, under certain circumstances, an instruction as to both is appropriate, and, indeed, required." *Bongard*, 1993 WL 120330, at *8 (citing *Cervone v. Reading*, 538 A.2d 16 (Pa. Super. Ct. 1998), appeal denied, 551 A.2d 213 (Pa. 1988). *See also Lockhart v. List*, 542 Pa. 141, 665 A.2d 1176, 1182-83 (Pa. 1995) (holding that jury instructions on both the assured clear distance rule and the sudden emergency doctrine were required under the circumstances). In *Bongard*, the court reasoned that "if the first automobile in a line of traffic faces a sudden emergency," there is no *per se* rule that the other vehicles following in the same lane of traffic are not also entitled to an instruction on the sudden emergency doctrine, even if the following vehicle was in fact unable "to stop safely within the original assured clear distance." *Id.* (emphasis supplied). Instead, the *Bongard* court held that a sudden emergency instruction for the drivers following the leader was proper if the "drivers in the following cars could not be expected to safely stop before impact with the preceding car forced to stop short due to the emergency." *Id.* Applying this logic to the instant case, Wakeman may plausibly contend that he was unable to stop safely within his original assured clear distance because of the sudden emergency presented by the unexpected deceleration of DaVilla and Lee's trucks at the precise moment he was merging back into their lane of travel. *See also Chiodo v. Gargloff & Downham Trucking Co.*, 308 Pa. Super. 498, 454 A.2d 645, 646-47 (Pa. Super. Ct. 1983) (when "a sudden emergency arises" within the assured clear distance ahead, the "rule is inapplicable") (citing *Hollern v. Verhovsek*, 220 Pa. Super. 343, 287 A.2d 145 (Pa. Super. Ct. 1971)).

Moreover, the Pennsylvania Superior Court has specifically rejected a rule that the sudden emergency doctrine does not apply to "vehicles moving in the same direction." *Drew v. Work*, 95 A.3d 324, 330-31, 2014 Pa. Super. 137 (Pa. Super. Ct. 2014). Additionally, the Pennsylvania Supreme Court has rejected the proposition that "where an accident involves motorists traveling in the same direction, only the first driver can invoke the sudden emergency doctrine." *Levey v. DeNardo*, 555 Pa. 514, 725 A.2d 733, 736 (Pa. 1999). *See also Hetherington v. Meador*, 1992 WL 398365, at *6-7 (E.D. Pa. Dec. 30, 1992), *aff'd* 6 F.3d 779 (3d Cir. 1993). These cases caution against removing the sudden emergency doctrine or the assured clear distance rule from the jury's consideration, except in the clearest of cases. *See Drew*, 95 A.2d at 333 n. 8 ("where the evidence is such that reasonable minds could differ as to whether a sudden emergency actually existed, both [assured clear distance and sudden emergency] charges should be given"). Thus, Wakeman's negligence remains an issue for the jury's determination based on the evidence and following proper instructions informing the standard of care.

VI. Conclusion

For the foregoing reasons, the Motion for Summary Judgment filed by DaVilla and Triple D Supply, LLC is DENIED. An appropriate order follows.

ORDER

Defendant Franklin DaVilla and Triple D Supply, LLC's Motion for Summary Judgment at ECF No. 89 is DENIED.

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

Dated: June 10, 2021

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Matt Wiertel
Director of Sales & Marketing

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 11229-2021 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Cheyanne Ciera Conner to Cheyanne Ciera Blackford. The Court has fixed the 27th day of July, 2021 at 9:00 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.

July 2

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 11337-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Pamela Ann Lewis to Pamela Ann Stafford. The Court has fixed the 12th day of August, 2021 at 9:00 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.

July 2

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Cristina Marie Zeigler to Cristina Marie Bolorin. The Court has fixed the 10th day of August, 2021 at 9:00 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.

July 2

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: West Erie Publishing
 2. Address of the principal place of business: 5228 Annendale Drive, Erie, Pennsylvania 16506
 3. The real names and addresses, including street and number, of the persons who are parties to the registration: McDonald, LLC
 4. An application for registration of a fictitious name under the Fictitious Names Act was filed on or about May 27, 2021.
- Grant M. Yochim, Esquire
24 Main Street East
Girard, Pennsylvania 16417

July 2

LEGAL NOTICE

ATTENTION: UNKNOWN BIOLOGICAL FATHER INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD J.J.D. DOB: 02/15/2017

BORN TO: TEANA MARIE DIAZ 52 IN ADOPTION, 2021 If you could be the parent of the above-mentioned children, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Erin Connelly Marucci, Courtroom D #214, City of Erie on July 28, 2021 at 2:30 p.m. and there show cause, if any you have, why your parental rights to the above children should not be terminated, in accordance with

a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth at (814) 451-7740.

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

You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Family/Orphan's Court Administrator
Room 204 - 205
Erie County Court House
Erie, Pennsylvania 16501
(814) 451-6251

NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742. 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. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-7726, or contact your adoption attorney, if you have one.

July 2

LEGAL NOTICE

CIVIL ACTION

COURT OF COMMON PLEAS

ERIE COUNTY, PA

CIVIL ACTION-LAW

NO. 2020-10748

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE
NATIONSTAR MORTGAGE LLC
D/B/A CHAMPION MORTGAGE

COMPANY, Plaintiff

v.

GREG J. JANULESKI, IN
HIS CAPACITY AS HEIR OF
CAROLYN J. POTOCKI A/K/A
CAROLYN POTOCKI A/K/A
CAROLYN JEAN FARINA
POTOCKI, DECEASED; et al,

Defendants

To: UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND
ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING
RIGHT, TITLE OR INTEREST
FROM OR UNDER CAROLYN
J. POTOCKI A/K/A CAROLYN
POTOCKI A/K/A CAROLYN JEAN
FARINA POTOCKI, DECEASED
Defendant(s), 5429 MILL STREET,
ERIE, PA 16509

COMPLAINT IN

MORTGAGE FORECLOSURE

You are hereby notified that Plaintiff,
NATIONSTAR MORTGAGE LLC
D/B/A CHAMPION MORTGAGE
COMPANY, has filed a Mortgage
Foreclosure Complaint endorsed
with a Notice to Defend, against
you in the Court of Common Pleas
of ERIE County, PA docketed to No.
2020-10748, seeking to foreclose the
mortgage secured on your property
located, 5429 MILL STREET ERIE,
PA 16509.

NOTICE

YOU HAVE BEEN SUED IN
COURT. If you wish to defend
against the claims set forth in this
notice you must take action within
twenty (20) days after the Complaint
and Notice are served, by entering a
written appearance personally or by
attorney and filing in writing with
the Court your defenses or objections
to the claims set forth against you.
You are warned that if you fail to
do so, the case may proceed without
you, and a judgment may be entered
against you by the Court without

further notice for any money claimed
in the Complaint or for any other
claim or relief requested by the
plaintiff. You may lose money or
property or other rights important
to you.

YOU SHOULD TAKE THIS PAPER
TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE A LAWYER,
GO TO OR TELEPHONE THE
OFFICE SET FORTH BELOW.
THIS OFFICE CAN PROVIDE
YOU WITH INFORMATION
ABOUT HIRING A LAWYER.
IF YOU CANNOT AFFORD TO
HIRE A LAWYER, THIS OFFICE
MAY BE ABLE TO PROVIDE
YOU WITH THE INFORMATION
ABOUT AGENCIES THAT MAY
OFFER LEGAL SERVICES
TO ELIGIBLE PERSONS AT A
REDUCED FEE OR NO FEE.

Lawyer Referral
& Information Service
PO Box 1792
Erie, PA 16507
814-459-4411

Robertson, Anschutz, Schneid, Crane
& Partners, PLLC
ATTORNEYS FOR PLAINTIFF
Jenine Davey, Esq. ID No. 87077
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

July 2

LEGAL NOTICE

IN THE COURT OF COMMON
PLEAS OF ERIE COUNTY,
PENNSYLVANIA
CIVIL ACTION—LAW
NO. 11095-2021

Mill Village Borough, Plaintiff v.
Trustees in Trust for the Methodist
Episcopal Church,
Abraham Bennett (DECEASED),
R.M. Wallis (DECEASED),
George Gillett (DECEASED),
Mill Village United Methodist
Church, Defendants.

**NOTICE TO: ABRAHAM
BENNETT (DECEASED),
R.M. WALLIS, (DECEASED),
AND GEORGE GILLETT
(DECEASED), THEIR
RESPECTIVE HEIRS,
ADMINISTRATORS,
SUCCESSORS AND ASSIGNS.**

The Plaintiff, Mill Village Borough,

claims it is the exclusive, lawful
owner of the below described
property, and holds all right, title
and interest in and to same which
property is more fully described as:
ALL that certain piece of land situate
in the Borough of Mill Village,
County of Erie, and Commonwealth
of Pennsylvania, bounded and
described as follows:

BEGINNING at a post in the road
leading from lands now or formerly
of Peter A. Colts to Waterford, said
point being the south east corner
of land now or formerly owned by
James Keen;

THENCE by said land, now or
formerly of James Keen, westwardly
ten and five tenths (10 5/10) perches
to a post;

THENCE southwardly and parallel
with the aforementioned road, six
(6) perches to a post;

THENCE eastwardly and parallel
with the north line of the within
described parcel of real estate, ten
and five-tenths (10 5/10) perches to
the aforementioned road; and
THENCE along the said road
northwardly six (6) perches to the
place of beginning. Containing
ninety-nine (99) perches of land,
more or less.

SAID premises being a vacant parcel
commonly known as 14522 South
Main Street, Waterford, Pennsylvania
and bearing Erie County Tax Index
No. (34) 6-13-12.

BEING the same premises granted
and conveyed by David Gregory
and Mariah E. Gregory, his wife,
to the Trustees of the Methodist
Church in the said Township and
their successors, in fee, by deed dated
December 4, 1858 and recorded
March 14, 1859 in the Office of the
Recorder of Deeds of Erie county,
Pennsylvania at Deed Book 11,
page 116.

ALSO, conveyed hereby are any
rights that the Grantor may hold and
that the Grantor is able to convey
under those certain instruments
(i) dated November 1, 1886 and
recorded at Erie County Deed Book
92, page 622 (lease from R.M. Wallis
to Trustees of M.E. Church for
church shed purposes and hitching
horses); (ii) dated April 18, 1871 and

recorded at Erie County Deed Book
92, page 623 (lease from Abraham
Bennett and Betsey Bennett to
Robert M. Wallis, et al.; assigned to
ME Church, Trustee for a driveway
easement right-of-way); (iii) dated
November 9, 1870 and recorded
October 31, 1963 at Erie County
Deed Book 886, page 64; (deed from
Abraham Bennett to Trustees of M.E.
Church for a parcel of real estate in
Mill Village Borough) and (iv) dated
October 13, 1886, an unrecorded
deed from A. Bennett to the Trustees
of the M.E. Church for a small strip
of land adjoining the west side of the
M.E. Church lot between the M.E.
Church lot and land now or formerly
of R. M. Wallis.

NOTICE

YOU HAVE BEEN SUED IN
COURT. If you wish to defend, you
must enter a written appearance
personally or by attorney and file
your defenses or objections in writing
with the court within twenty (20)
days from the date this Notice is
published. You are warned that if you
fail to do so the case may proceed
without you and a judgment may be
entered against you without further
notice for the relief requested by
the plaintiff. You may lose money
or property or other rights important
to you.

YOU SHOULD TAKE THIS PAPER
TO YOUR LAWYER AT ONCE. IF

YOU DO NOT HAVE A LAWYER,
GO TO OR TELEPHONE THE
OFFICE SET FORTH BELOW.
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IF YOU CANNOT AFFORD TO
HIRE A LAWYER, THIS OFFICE
MAY BE ABLE TO PROVIDE YOU
WITH INFORMATION ABOUT
AGENCIES THAT MAY OFFER
LEGAL SERVICES TO ELIGIBLE
PERSONS AT A REDUCED FEE
OR NO FEE.#

If you do not know a lawyer, contact:
Lawyer Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
1(800) 692-7375

If you cannot afford a lawyer, contact:
Northwestern Legal Services
1001 State Street
Unit #700
Erie, PA 16501
(814) 452-6949

KNOX MCLAUGHLIN GORNALL
& SENNETT, P.C.
Christopher F. Sennett, Esquire
120 West Tenth Street
Erie, Pennsylvania 16501
Telephone: (814) 459 2800
Fax: (814) 453-4530
Attorneys for Plaintiff
Mill Village Borough

July 2

Business Partner



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SHERIFF SALES

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

JULY 16, 2021

AT 10 A.M.

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

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

John T. Loomis
Sheriff of Erie County

June 25 and July 2, 9

SALE NO. 1

Ex. #10763 of 2020

**Producers Credit Corporation,
Plaintiff
v.**

**Howard J. Hammond, III and
Kelli R. Hammond, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2020-10763, Producers Credit Corporation v. Howard J. Hammond, III and Kelli R. Hammond, owners of property situated in the Township of Concord, Erie County, Pennsylvania being commonly known as 20258 Hammond Road, Corry, PA 16407 (Parcel No. (3) 15-35-004.00) with 130.48 acreage.

Assessment Map No.

Parcel No. (3) 15-35-004.00

Assessed Value Figure: \$163,866.20
Improvement thereon:

Barns and sheds
Mark G. Claypool, Esquire
Knox McLaughlin Gornall
& Sennett, P.C.

120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

June 25 and July 2, 9

SALE NO. 2

Ex. #10183 of 2021

**Producers Credit Corporation,
Plaintiff
v.**

**Howard J. Hammond, III,
Thomas Leretsis, and the United
States Of America, Department
of the Treasury, Internal Revenue
Service, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2021-10183, Producers Credit Corporation v. Howard J. Hammond, III, Thomas Leretsis, and the United States Of America, Department of the Treasury, Internal Revenue Service, owners of property situated in the Township of Concord, Erie County, Pennsylvania being commonly known as 99.43 acres more or less along Hammond Road, Corry, PA 16407 (Parcel No. (3) 20-36-18) and 20281 Hammond Road, Corry, PA 16407 (Parcel No. (3) 14-36-1) with 2,156 square footage and 50.0 acreage.

Assessment Map No.

Parcel No. (3) 20-36-18

Assessed Value Figure:

\$57,840.20

Improvement thereon:

One-sided open pole building

Parcel No. (3) 14-36-1

Assessed Value Figure:

\$116,714.80

Improvement thereon:

Two-story dwelling
Mark G. Claypool, Esquire
Knox McLaughlin Gornall
& Sennett, P.C.

120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

June 25 and July 2, 9

SALE NO. 3

Ex. #10066 of 2021

**HOME POINT FINANCIAL
CORPORATION, Plaintiff**

v.

**JUDITH A. BURKE, IN HER
CAPACITY AS EXECUTRIX
AND DEVISEE OF THE
ESTATE OF THOMAS A.**

BURKE, Defendant

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2021-10066, HOME POINT FINANCIAL CORPORATION vs. JUDITH A. BURKE, IN HER CAPACITY AS EXECUTRIX AND DEVISEE OF THE ESTATE OF THOMAS A. BURKE THOMAS A. BURKE, owner(s) of property situated in North East Borough, ERIE County, Pennsylvania
21 EAGLE STREET, NORTH EAST, PA 16428

35-006-047.0-004.00;

980 square feet; 0.0583 acreage

Assessment Map number:

35-006-047.0-004.00

Assessed Value figure: \$65,630

Improvement thereon:

Single Family
Vincent DiMaiolo, Jr., Esq.
Court I.d. No. 59461
Ashleigh Levy Marin, Esq.
Court I.d. No. 306799
Mehmet Basoglu, Esq.
Court I.d. No. 329635
7660 Imperial Way, Suite 121
Allentown, Pennsylvania 18195
(610) 395-3535

June 25 and July 2, 9

SALE NO. 4

Ex. #13114 of 2018

**The Bank of New York, not in its
individual capacity but solely as
Trustee on behalf of the holders
of the CIT Mortgage Loan Trust,
2007-1 Asset-Backed Certificates,
Series 2007-1, Plaintiff**

v.

**Timothy T. Markin, Individually
and as Executor of the Estate of
Helen M. Markin, Deceased, and
Mary F. Markin, Defendants**

DESCRIPTION

By Virtue of Writ of Execution filed to No. 2018-13114, The Bank of New York, not in its individual

SALE NO. 6

Ex. #10153 of 2020

**First Heritage Financial LLC,
Plaintiff**

v.

**Gregory M. Scott and
Zane D. Fallon, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2020-10153, First Heritage Financial LLC vs. Gregory M. Scott and Zane D. Fallon, owner(s) of property situated in the Borough of Girard, Erie County, Pennsylvania being 170 Locust Street, Girard, PA 16417

0.1791

Assessment Map number:

23-015-052.0-020.00

Assessed Value figure: \$73,400.00

Improvement thereon: a residential dwelling

LOGS Legal Group LLP

Attorney for Movant/Applicant

3600 Horizon Drive, Suite 150

King of Prussia, PA 19406

(610) 278-6800

June 25 and July 2, 9

SALE NO. 7

Ex. #10202 of 2018

**LSF10 Master Participation
Trust, Plaintiff**

v.

**Nathan G. Zaczek aka
Nathan Gerid Zaczek aka
Nathan Zaczek, Defendant**

DESCRIPTION

By virtue of a Writ of Execution filed to No. 10202-18, LSF10 Master Participation Trust v. Nathan G. Zaczek aka Nathan Gerid Zaczek aka Nathan Zaczek, owners of property situated in the Township of North East, Erie County, Pennsylvania being 8615 Route 89 AKA 8615 Station Road, North East, Pennsylvania 16428.

Tax I.D. No. 37-29-131-2

Assessment: \$ 125,563.80

Improvements:

Residential Dwelling

McCabe, Weisberg & Conway, LLC

123 South Broad Street, Suite 1400

Philadelphia, PA 19109

215-790-1010

June 25 and July 2, 9

SALE NO. 8

Ex. #13438 of 2019

**Towd Point Mortgage Trust
2018-2, Plaintiff**

v.

**Donald L. Dorman and
Jennine M. Dorman, Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2019-13438, Towd Point Mortgage Trust 2018-2 vs. Donald L. Dorman and Jennine M. Dorman, owner(s) of property situated in the Borough of Waterford, Erie County, Pennsylvania being 109 East 2nd Street, Waterford, PA 16441

Single Family

75 X 155

Assessment Map number:

46009048000200

Assessed Value figure: \$95,100

Improvement thereon: Residential Single Dwelling

Stern & Eisenberg, P.C.

Andrew J. Marley, Esquire

1581 Main Street, Suite 200

Warrington, PA 18976

June 25 and July 2, 9

SALE NO. 9

Ex. #11842 of 2020

**Deutsche Bank National et. al,
Plaintiff**

v.

**Colleen L. Cardoza and
Charles K. Foht, Jr., Defendants**

DESCRIPTION

By virtue of a Writ of Execution filed to No. 2020-11842, Deutsche Bank National et. al vs. Colleen L. Cardoza and Charles K. Foht, Jr., owner(s) of property situated in the Borough of Wesleyville, Erie County, Pennsylvania being 1805 Market Street, Erie, PA 16510

Single Family

95 X 138 IRR

Assessment Map number:

50001004001000

Assessed Value figure: \$78,000

Improvement thereon: Residential Single Dwelling

Stern & Eisenberg, P.C.

Andrew J. Marley, Esquire

1581 Main Street, Suite 200

Warrington, PA 18976

June 25 and July 2, 9



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Joseph P. Maloney, CPA, CFE
Rick L. Clayton, CPA • Christopher A. Elwell, CPA • Ryan Garofalo, CPA

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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

ANTHONY, CAMILLE W., a/k/a CAMILLE A. ANTHONY, a/k/a MARY CAMILLE ANTHONY, deceased

Late of the Town of Reading, County of Middlesex, Commonwealth of Massachusetts
Executrix: Jill McFadden, 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

ARMITAGE, HELEN M., a/k/a HELEN MARIE ARMITAGE, deceased

Late of the City of Corry, Erie County
Executrix: Jacqueline Marie Polito
Attorney: Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

CAMILLO, CARMINE, deceased

Late of the Township of Millcreek, Erie County, Commonwealth of Pennsylvania
Executrix: Carmine A. Camillo, 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

CHERVENKA, THOMASINA, deceased

Late of the City of Erie, County of Erie, Commonwealth of PA
Administratrix: Ruth Parr, c/o 102 East 4th Street, Erie, PA 16507
Attorney: Richard E. Filippi, Esquire, 102 East 4th Street, Erie, PA 16507

FITCH, VIVIAN M., a/k/a VIVIAN FITCH, deceased

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania
Executrix: Virginia M. MacWilliams, c/o 337 West 10th Street, Erie, PA 16502
Attorneys: THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

FRANZ, EVELYNNE J., a/k/a EVELYNNE FRANZ, deceased

Late of the Township of Fairview, Commonwealth of Pennsylvania
Executor: Richard A. Vendetti, Esquire, c/o Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509
Attorney: Richard A. Vendetti, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509

GOULD, DOROTHY JAY, a/k/a DOROTHY J. GOULD, deceased

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Kathleen Presogna, 1404 East 30th Street, Erie, PA 16504
Attorney: Gary K. Schonthaler, Esquire, The Conrad - A.W. Brevillier House, 510 Parade Street, Erie, PA 16507

LOBAUGH, MARK S., deceased

Late of Greene Township
Executor: Evan W. Lobough
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

MILLER, PATRICIA M., a/k/a PATRICIA M. BRISKA, a/k/a PATRICIA BRISKA, deceased

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania
Executrix: Lynne Martin, 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

OSTROWSKI, JOSEPH, a/k/a JOSEPH OSTROWSKI, JR., deceased

Late of the Borough of Cranesville, County of Erie, Commonwealth of Pennsylvania
Executrix: Kimberly Rearic, 9791 Franklin Center Road, Cranesville, PA 16410
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

SHURER, JOHN J., deceased

Late of Fairview Township, Erie County
Administratrix: Constance Williams, 7101 Old Ridge Rd., Fairview, PA 16415
Attorney: None

SMITH, STEPHEN J., deceased

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania
Executrix: Janice L. Vacco, 7797 Daggett Road, Girard, PA 16417
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**YOUNG, STEPHAN,
deceased**

Late of the City of Erie, Erie County
Co-administratrices: Norma Young, 441 West Third Avenue, Apartment 116, Erie, PA 16507 and Desiree Abell, 5586 East Hermans Road, #1, Tucson, AZ 85756
Attorney: Matthew A. Bole, Esquire, Fiffik Law Group, PC, Foster Plaza 7, Suite 315, 661 Andersen Drive, Pittsburgh, PA 15220

SECOND PUBLICATION

**ALLEGRETTO, IRENE A.,
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Administrator: William M. Allegretto
Attorney: Thomas J. Minarcik, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

**BEHAN, JOANN,
deceased**

Late of Millcreek Township
Administratrix: Colleen Pagano
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

**COWHER, ROBIN R.,
deceased**

Late of Springfield Township
Administratrix: Carlie A. Chamberlain, c/o Brenc Law, 9630 Moses Road, Springboro, Pennsylvania 16435
Attorney: Andrew S. Brenc, Esquire, 9630 Moses Road, Springboro, Pennsylvania 16435

**DUNLAP, ROBERT H.,
deceased**

Late of the Township of Amity, County of Erie, Commonwealth of Pennsylvania
Executrix: Yvonne J. Cebe, 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

**ENGEL, ARLENE A.,
deceased**

Late of Millcreek Township
Executor: John C. Engel
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

**JOHNSON, PEGGIE S.,
deceased**

Late of Fairview Township, County of Erie, Commonwealth of Pennsylvania
Executor: Clayton Johnson, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**MOREALLI, MARIE S.,
deceased**

Late of the City of Erie, County of Erie
Executor: Gregory Morealli, 434 Cambridge Road, Erie, Pennsylvania 16511
Attorney: Kari A. Froess, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

**NLEWOLAK, IRENE, a/k/a
IRENE M. NIEWOLAK,
deceased**

Late of Erie, Erie County, Pennsylvania
Executrix: Linda Trott, c/o 502 Parade Street, Erie, PA 16507
Attorney: Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

**OAKS, MARY ALICE,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Donald Oaks, c/o Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501
Attorney: Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501

**OAKS, SAMUEL C.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Donald Oaks, c/o Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501
Attorney: Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501

**ONUFFER, CINDY A.,
deceased**

Late of the Township of Union, County of Erie and State of Pennsylvania
Executor: Thomas Onuffer, 17671 Wilson Rd., Union City, PA 16438
Attorney: None

**ROSS, DONNA M., a/k/a
DONNA H. ROSS, a/k/a
DONNA H. EADES,
deceased**

Late of Erie County, Pennsylvania
Executrix: Douglas P. Nielson, 201 Hidden View Drive, Wheeling, WV 26003
Attorney: William T. Morton, Esquire, 2225 Colonial Ave., Suite 206, Erie, PA 16506

**THORPE, DOUGLAS S.,
deceased**

Late of the City of Erie
Executrix: Elizabeth J. Woodworth
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

**TOOMEY, RONALD C.,
deceased**

Administrator: Terry Toomey, Esq., 1098 Market Street, Meadville, PA 16335
Attorney: Terry Toomey, Esq., 1098 Market Street, Meadville, PA 16335

**VALERIO, DOUGLAS JAMES,
a/k/a DOUGLAS J. VALERIO,
deceased**

Late of the City of Erie, Erie County, Pennsylvania
Administratrix: Mary Ellen Valerio, 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

THIRD PUBLICATION

**BIELSKI, KATHLEEN A., a/k/a
KATHLEEN BIELSKI,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania
Executrix: Jacqueline M. Catrabone, 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

**BRINKER, PATRICK SHAWN,
a/k/a PATRICK S. BRINKER,
deceased**

Late of the City of Erie, Erie County
Executrix: Sue Walter
Attorney: Edwin W. Smith, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**BUHITE, HAROLD, JR.,
deceased**

Late of Greene Township, County of Erie and Commonwealth of Pennsylvania
Executrix: Robert J. Buhite, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**BURTON, MARGARET E.,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Co-executors: David Burton and Timothy Burton, c/o Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501
Attorney: Anthony Angelone, Esquire, NIETUPSKI ANGELONE, 818 State Street, Suite A, Erie, PA 16501

**CALVEY, CONNIE, a/k/a
CONNIE L. CALVEY, a/k/a
CONNIE LEE CALVEY,
deceased**

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania
Executor: Paul Edward Calvey, 3699 E. Normandy Park Drive, Apt. U1, Medina, OH 44256
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**GARRETT, JUDITH H., a/k/a
JUDITH HILDA GARRETT, a/k/a
JUDITH GARRETT, a/k/a
JUDY H. GARRETT,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Carl E. Garrett, c/o James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509
Attorney: James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509

**HARE, JOAN S.,
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania
Executrix: Walter O. Harf, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Kurt L. Sundberg, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**LANIER, ARLENE E.,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania
Executrix: Steven D. Lanier, 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

**LYNCH, WILLIAM T., a/k/a
WILLIAM THOMAS LYNCH,
deceased**

Late of the Township of Millcreek
Executrix: Irma M. Lynch
Attorney: Andrew J. Sisinni, Esquire, 1314 Griswold Plaza, Erie, PA 16501

**McNULTY, JOHN JOSEPH, a/k/a
JOHN J. McNULTY,
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania
Executrix: Mary A. McNulty, 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

**MENOSKY, JOAN,
deceased**

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

Executrix: Mary Laurie
Holmwood, 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

**OLON, MARY AVIS, a/k/a
MARY A. OLON,
deceased**

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

Co-executors: Robert P. Olon and
John T. Olon, 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

**POLLOCK, RAYMOND
CHARLES, JR.,
deceased**

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

Executor: Kevin J. Pollock, Sr.,
c/o Frank R. Gustine, Esquire,
Ruschell & Associates, LLC,
P.O. Box 577, Midway, PA 15060

Attorney: Frank R. Gustine,
Esquire, Ruschell & Associates,
LLC, P.O. Box 577, Midway,
PA 15060

**ROTHMAN, CHRISTINE A.,
a/k/a CHRISTINE ROTHMAN,
deceased**

Late of Summit Township, Erie
County, Commonwealth of
Pennsylvania

Executrix: Caitlin Andryka,
c/o Thomas C. Hoffman, II, Esq.,
120 West Tenth Street, Erie, PA
16501

Attorney: Thomas C. Hoffman, II,
Esq., Knox McLaughlin Gornall
& Sennett, P.C., 120 West Tenth
Street, Erie, PA 16501

**SMITH, GOLDIE C., a/k/a
GOLDIE CATHERINE SMITH,
deceased**

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

Co-executors: Thomas J. Smith,
Jr., 616 Lake Street, Girard, PA
16417-1322, Dale R. Smith, Sr.,
5238 Rockton Road, DuBois, PA
15801-9667 and Dolores F. Eagley,
464 W. 9th Street, Apt. 2, Erie, PA
16502-1345

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

**SMITH, RONALD W.,
deceased**

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

Administrator: Gale Y. Jordan,
c/o 504 State Street, Suite 300,
Erie, PA 16501

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

**VIEIRA, EVELYN HAMMOND,
a/k/a EVELYN M. VIEIRA,
deceased**

Late of the City of Erie, Erie
County, PA

Executrix: Susan Livingston,
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

**WINSTON, RICHARD G.,
deceased**

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

Executrix: Karen L. Winston,
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

**ZAHNER, VIRGINIA M.,
deceased**

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

Executrix: Carolyn Zahner
Englert, 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

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

MARIA J. GOELLNER.....717-945-9089
Pennsylvania State Policy Director
FAMM
1903 W. 8th Street PMB #257
Erie, PA 16505 mgoellner@famm.org

New email addresses

PAUL J. CARNEY, JR. Corry@carneyruth.com
THOMAS J. RUTH Unioncity@carneyruth.com



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July 2, 2021

Join the SUMMER OUT LOUD Challenge



LIVE SUMMER OUT LOUD - 3-WEEK WELLNESS CHALLENGE

Want to avoid the “I’m BORED” phase of the Summer?! Join the Y’s SUMMER OUT LOUD Challenge with your family, friends, or even fur-babies and we will help you stay active the month of July!

This 3-week Challenge is FREE and Y membership is not required. Just text SUMMER to 844-889-6222 & fill out the form linked in the text reply to complete their registration.

What is the Summer Out Loud Passport? It’s a creative and fun-filled activity book for you and your family, friends, or fur-babies to stay active this summer, spend time together, and celebrate a triumphant return to the outdoors!

How will I know what to do? Participants will receive 3 text messages each week with challenges, fun content, and ways to stay active including free virtual content and on demand content for all participants. You’ll also receive 1 weekly email with fun videos and tips for success.

For more information, click on this link:
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Sleeping duty - Litigators are sounding the alarm about the danger of distracted juries during virtual trials, with some arguing that allowing jurors to appear remotely from the comfort of their own homes is an invitation to inattentiveness. And indeed, there have been some doozies recently, with reports of jurors and prospective jurors applying makeup, playing video games, folding laundry, eating, sleeping, vaping, walking around and even talking on the phone during proceedings. But are Zoom trials really the problem? Or are they simply providing a 1920px by 1080px window into the age-old struggles that come with plucking people out of their daily routines and asking them to remain alert and engaged for hours on end, motivated by little more than a sense of civic duty? It appears the jury’s still out — probably for a smoke break.

Marijuana strains - Justice Clarence Thomas issued a statement after the U.S. Supreme Court refused to hear a cannabis tax case Monday. Cheryl Miller reports the justice questioned whether the federal government’s continuing ban on marijuana cultivation and use “is necessary or proper,” given widespread legalization among the states. Miller reports that in a five-page statement “respecting the denial of certiorari” in *Standing Akimbo v. United States*, Thomas criticized the federal government’s “half-in, half-out regime” that simultaneously condones state-level medical marijuana use but refuses to allow dispensaries to deduct business expenses from their taxes. “This contradictory and unstable state of affairs strains basic principles of federalism and conceals traps for the unwary,” Thomas wrote. Read more ... <https://www.reuters.com/legal/government/us-marijuana-ban-may-no-longer-be-necessary-justice-thomas-2021-06-28/>

A Class Action Trial and \$61 Million Judgment - A claims process with \$11 million left over. Who gets the \$11 million? The distribution of a class action settlement fund to class members usually ends up with undistributed residual funds because of missing class members, unfiled claims, and uncashed checks. Experienced class action lawyers know the simple solution to this practical problem: A settlement agreement provision that any undistributed residue will go to designated organizations as cy pres awards. But what happens when there is a trial, a judgment awarding damages to the plaintiff class, a distribution process leaving undistributed funds — and no settlement agreement saying who gets the money? Read more ... <https://www.americanbar.org/groups/litigation/committees/class-actions/practice/2021/krakauer-v-dish-network/>

Dad discrimination? - A high-profile case involving a national sportscaster is putting the spotlight on employment-discrimination cases arising during the pandemic. The complaint by Atlanta-based TV sports host Casey Stern against Warner Media LLC and Turner Sports Inc. alleged the broadcast employer discriminated against him as a man with child care responsibilities and in need of COVID-19-related work and scheduling accommodations.

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