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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, MARCH 28, 2022

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

TUESDAY, MARCH 29, 2022

Law Day Committee Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

WEDNESDAY, MARCH 30, 2022

Live ECBA Seminar
Data Privacy and Information Security: Current Issues and Trends
5:00 - 6:00 p.m.
The Will J. Schaaf & Mary B. Schaaf
Education Center in-person or via Zoom
Click link for details
<https://www.eriebar.com/events/public-registration/1755>

THURSDAY, MARCH 31, 2022

Live ECBA Lunch-n-Learn Seminar
The Burned Out Lawyer: Recognition and Prevention Strategies in the COVID-19 World
Noon - 1:00 p.m.
The Will J. Schaaf & Mary B. Schaaf
Education Center in-person or via Zoom
Click link for details
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FRIDAY, APRIL 1, 2022

Estates & Trusts Section Meeting
Noon
ECBA Headquarters live (must RSVP)
or via Zoom

MONDAY, APRIL 4, 2022

Attorney & Kids Together Committee Meeting
4:00 p.m.
ECBA Headquarters live (must RSVP)
or via Zoom

WEDNESDAY, APRIL 6, 2022

ECBA Wellness Wednesday Series
Lunchtime Yoga
Noon
via Zoom

THURSDAY, APRIL 7, 2022

Live ECBA Lunch-n-Learn Seminar
Title Insurance 101: The Title Commitment
(Part three of a four-part series)
Noon - 1:00 p.m.
The Will J. Schaaf & Mary B. Schaaf
Education Center in-person or via Zoom
Click link for details
<https://www.eriebar.com/events/public-registration/1751>

TUESDAY, APRIL 12, 2022

Civil Court Rules Committee Meeting
Noon
ECBA Headquarters live (must RSVP)
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- keep accurate calendars for the attorneys;
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Mar. 25

SELLING

Attorney's Wooden Desk/w matching credenza; desk pad; carpet protector; 1 attorney's swivel chair, 2 client chairs (fabric), long 2-drawer filing cabinet and 2 tall 4-drawer filing cabinets. Items are high quality. Excellent condition. \$1,850.00 negotiable. Call Randy Shapira at 814-474-5750.

Mar. 25

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IN THE MATTER OF THE ADOPTION OF M.H.R. (D.O.B.: NOVEMBER 17, 2018)**IN THE MATTER OF THE ADOPTION OF P.A.R. (D.O.B.: OCTOBER 18, 2020)****APPEAL OF: H.J.S., MOTHER AS TO BOTH NOS. 20 AND 20A IN ADOPTION***INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

The grounds for termination of parental rights due to parental incapacity that cannot be remedied are not limited to affirmative misconduct; instead, such grounds emphasize the child's present and future need for essential parental care, control or subsistence necessary for his physical or mental well-being, and, therefore, the statutory language should not be read to compel courts to ignore a child's need for a stable home and strong, continuous parental ties, particularly so where disruption of the family has already occurred and there is no reasonable prospect for reuniting it. 23 Pa.C.S.A. § 2511(a)(2).

INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE

In an action to terminate parental rights, above all else adequate consideration must be given to the needs and welfare of the child. 23 Pa.C.S. § 2511(b).

INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE

"Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions." *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE

When a parent has demonstrated a continued inability to conduct her life in a fashion that would provide a safe environment for a child, whether that child is living with the parent or not, and the behavior of the parent is irretrievable as supported by clear and competent evidence, the termination of parental rights is justified. 23 Pa.C.S. § 2511(a)(2).

INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE

A parent's vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous, in a proceeding to terminate parental rights. 23 Pa.C.S. § 2511(a).

INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE

A parent facing termination of parental rights must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship. 23 Pa.C.S. § 2511(a).

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
ORPHAN'S COURT DIVISION

NO. 20 IN ADOPTION, 2021

951 WDA 2021

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
ORPHAN'S COURT DIVISION

NO. 20A IN ADOPTION, 2021

950 WDA 2021

Appearances: Emily Mosco Merski, Esq., for Appellant, H.J.M, a/k/a H.J.S., Mother
Deanna L. Heasley, Esq., Legal Counsel for each Minor Child
Kevin C. Jennings, Assistant Solicitor for ECCYS

1925(a) OPINION

Domitrovich, J.,

September 9, 2021

Appellant H.J.M, also known as H.J.S (hereinafter Mother) appeals through her counsel Emily Merski, Esq. from the Final Decree dated July 13, 2021 in the Erie County Court of Common Pleas granting the Petition of Involuntary Termination from the Erie County Children and Youth Services (hereinafter ECCYS) terminating Mother's parental rights pursuant to 23 Pa.C.S. §2511 (a) (1), (2), (5), (8) and (b), to her children, M.H.R. (hereinafter Minor Child M.H.R.) born November 17, 2018, and P.A.R. (hereinafter Minor Child P.A.R.) born October 18, 2020 (and collectively referred to as Minor Children).¹

In lieu of a Concise Statement of Errors Complained of on Appeal and pursuant to Pa.R.A.P. 1925 (c)(4), Emily Merski, Esq. states, as appointed counsel for Mother, "no non-frivolous appellate issues exist and intends to file a petition to withdraw and brief pursuant to *Anders v. California*, 386 U.S. 738 (1967) and *In re Adoption of V.E.*, 611 A.2d 1267 (Pa. Super. 1992)." *Statement of Intention to File an Anders Brief*, filed on August 11, 2021.

Although this IVT Court at the conclusion of this IVT hearing orally on the record provided Findings of Fact and Conclusions of Law, this IVT Court has made the following more specific written Findings of Fact and Conclusions of Law as to the sufficiency of the evidence regarding 23 Pa.C.S. §2511 (a) (1), (2), (5), (8) and (b), with the benefit of a written Transcript for citation purposes.

FINDINGS OF FACT and PROCEDURAL HISTORY

The Dependency case as to Minor Child M.H.R. began on December 10, 2019, with an Emergency Protective Custody Order issued by the Dependency Court at the request of ECCYS. Removal of Minor Child M.H.R was found necessary for his welfare and best interest, and ECCYS made reasonable efforts to prevent removal or provide reunification. Any lack of services to prevent removal were reasonable due to emergency nature of removal and child's safety considerations. Minor Child M.H.R. was placed in the temporary protective physical and legal custody of ECCYS consistent with the Juvenile Act and Child Protective Services Law. *Emergency Protective Custody Order for M.H.R. dated December 10, 2019, Petitioner's Exhibit 4.*

Juvenile Court Dependency Docket Entries as to Minor Child M.H.R. indicate a Shelter Care hearing was held on December 12, 2019, in front of a Juvenile Court Hearing Officer. *See Petitioner's Exhibit 5, page 4.* On December 23, 2019, Juvenile Court Hearing Officer filed her Recommendations that were later adopted and ordered by Dependency Court on December 30, 2019, and then filed on January 7, 2020. Mother did not appear for this Shelter Care hearing although given notice by phone by ECCYS staff, and Mother was not represented by counsel. Father appeared and stipulated, through his counsel, to continued

¹ This IVT Court addressed both Minor Children in this same Opinion. Since these two cases captioned above are not consolidated at this time, this IVT Court filed an original of this 1925 (a) Opinion at each Docket No. for each Minor Child.

temporary shelter care pending an adjudication hearing. Minor Child M.H.R.'s Guardian Ad Litem also agreed to continued temporary shelter care pending an adjudication hearing. Reasonable efforts were made by ECCYS to prevent or eliminate the need for removal of this child from the home, and the Order indicates Minor Child M.H.R. was not returned to the home of Mother and/or Father since returning Minor Child M.H.R. was contrary to his welfare and best interests. Both legal and physical custody of Minor Child M.H.R. remained with ECCYS. Minor Child M.H.R. remained in Kinship Care as the least restrictive placement meeting his needs and no less restrictive alternative was available. ECCYS was to continue to engage in family finding efforts including interviewing Minor Child M.H.R. and family members; interviewing any previous caseworkers and probation officers; interviewing past and present service providers and therapists; checking social media sites; completing a genogram, family tree, or mapping; and all other sources that would lead to identification of family members, kin, and fictive kin. ECCYS was directed to present its family finding efforts at the next court hearing scheduled for this child. Mother and Father were permitted one supervised visit before the next hearing. *Recommendation for Shelter Care for Minor Child M.H.R. dated December 23, 2019, and Dependency Order dated December 30, 2019, Petitioner's Exhibit 3, pages 1-2.*

On December 19, 2019, an Adjudicatory hearing was held in the interest of Minor Child M.H.R. Mother did not initially appear despite receiving notification, but appeared during the testimony being presented by the agency. Amanda Kimmy testified from ECCYS about this referral and her concerns about the transiency of the housing of this family. Ms. Kimmy testified about the parents' drug use concerns. Her testimony demonstrated the need for adjudication, and Minor Child M.H.R.'s Guardian Ad Litem agreed with adjudicating Minor Child M.H.R. dependent. The Court found "the testimony does establish the need for an adjudication of dependency for the reasons set forth in the Dependency Petition." The Pre-Dispositional Summary was admitted without objection. The Treatment Plan, placement setting, and visitation schedule were found appropriate for the family. Since clear and convincing evidence existed to substantiate allegations in Dependency Petition, Minor Child M.H.R. was declared a Dependent Child who was "without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals." *Recommendation for Adjudication and Disposition for M.H.R. dated December 19, 2019, Petitioner's Exhibit 3, page 2.*

Upon the parties' agreement, the Dispositional Hearing was also held on December 19, 2019, immediately following this Adjudication Hearing. Juvenile Hearing Officer found, due to findings of abuse, neglect or dependency of the minor Child, the best interest of Minor Child M.H.R. was to remove him from Mother and Father. To permit him to remain in their home would have been contrary to Minor Child M.H.R.'s welfare. Moreover, reasonable efforts were made by ECCYS to prevent or eliminate the need for removal of Minor Child M.H.R. from his home. Additionally, the Court ordered Minor Child M.H.R. remain in Kinship Care, the least restrictive placement meeting his needs, and no less restrictive alternative was available. The goal for Minor Child M.H.R. was determined to be return to parent or guardian with the projected date being uncertain. Mother was directed to refrain from use of drugs and alcohol and submit to random urinalysis screening through Esper Treatment Center as requested by ECCYS. If Mother had a positive urine screen, Mother

would be referred to random urinalysis color code program thorough Esper Treatment Center. Mother was to participate in a drug and alcohol treatment assessment and follow through with any recommendations; participate in a mental health evaluation and follow through with any recommendations; obtain and/or maintain safe and stable housing and provide ECCYS with a signed lease to show she is able to provide stability for Minor Child M.H.R.; obtain and/or maintain gainful employment and provide ECCYS with documentation she is employed and was receiving an income; participate in a parenting education program and demonstrate her ability to provide for Minor Child M.H.R.'s needs during visitation; demonstrate her ability to provide for safety and well-being of this child including attending medical, dental, and other necessary appointments; and sign any and all releases requested by ECCYS. Mother and/or Father had supervised visitation once per week and increased in frequency and/or duration according to Mother and/or Father's progress with court ordered services. Visitation was to progress to unsupervised once deemed appropriate by ECCYS. All visitation was contingent upon Mother and/or Father being drug and alcohol free. If a positive urine result was received, Mother and/or Father would have no visits until his or her next clean urine. *Recommendation for Adjudication and Disposition for M.H.R. dated December 19, 2019, Petitioner's Exhibit 3, page 3.*

On January 8, 2020, Dependency Court adopted and ordered the Juvenile Court Hearing Officer's Recommendation for Adjudication and Disposition as to Minor Child M.H.R. as being "in the best interest of the child." *Recommendation for Adjudication and Disposition for M.H.R. dated December 19, 2019, Petitioner's Exhibit 3, page 5.*

On January 29, 2020, after considering a Motion to Change Treatment Plan, Dependency Court amended Mother's Treatment Plan as to Minor Child M.H.R. and added: "The mother shall participate in an assessment for the Family Dependency Drug Treatment Court program, which will include a drug and alcohol treatment assessment, and follow through with all recommendations." *Court Order captioned with M.H.R. dated January 29, 2020, Petitioner's Exhibit 4.*

On February 7, 2020, Dependency Court ordered, upon consideration of a Motion for Special Relief, James Smith added as a party and directed him to submit to paternity testing to determine whether he was the biological father of Minor Child M.H.R. *Court Order captioned with Minor Child M.H.R. dated February 7, 2020, Petitioner's Exhibit 4.*

On March 17, 2020, Dependency Court ordered Minor Child M.H.R.'s Permanency Hearing scheduled for March 23, 2020 at 2:30 p.m. continued to a new date sixty days out. Dependency Court also stated, "reasonable efforts have been made by the Agency to finalize this child permanency plan." *Court Order for of Minor Child M.H.R dated March 17, 2020, Petitioner's Exhibit 4.* Since the hearing was continued to April 21, 2020, the Court Summary dated March 23, 2020, was, therefore, not used although contained in this record.

On April 21, 2020, the Permanency Review Hearing was held as to the seventeen-month-old Minor Child M.H.R. An updated Court Summary for the Permanency Review Hearing indicates: In the beginning, Mother and Father "were resistant to services; however, they have been more open and compliant with services over the past month." Mother and Father have participated in assessments for drug and alcohol and mental health treatment and are scheduled to participate in needed treatment services. Mother and Father have been more consistent in attending urinalysis screens within the past month. Father has submitted

clean urinalysis screens in the past several weeks. Mother has continued to test positive for marijuana, but the level of marijuana in her system appears to be decreasing. ECCYS will continue to monitor Mother and Father's compliance and progress. *Court Summary, Permanency Review Hearing as to Minor Child M.H.R., dated April 21, 2020, Petitioner's Exhibit 6, page 8.*

As to the Court directive that Mother refrain from drugs and alcohol, the Court Summary reveals between December 19, 2019 and April 16, 2020, Mother was to participate in a total of twenty-five urinalysis screenings. Of these screenings, Mother had a total of one Positive for Amphetamine, Methamphetamine and Marijuana, seventeen (17) Positive for Marijuana, one Positive Quantity not sufficient for analysis (specimen leaked in transit), and six (6) Positive No-Shows. *Court Summary, Permanency Review Hearing as to Minor Child M.H.R., dated April 21, 2020, Petitioner's Exhibit 6, pages 8-9.*

Specific Dates for Urinalysis results as to Mother were:

3/16/20 Positive for Marijuana
3/11/20 Positive for Marijuana
3/10/20 Positive for Marijuana
3/06/20 Positive for Marijuana
3/05/20 Positive for Marijuana
3/02/20 Positive for Marijuana
2/28/20 Positive for Marijuana
2/26/20 Positive for Marijuana
2/24/20 Quantity not sufficient for analysis (specimen leaked in transit)
2/22/20 Positive for Marijuana
2/18/20 Positive for Marijuana
2/14/20 Positive for Marijuana
2/13/20 Positive for Marijuana
2/10/20 Positive for Marijuana
2/05/20 Positive for Marijuana
2/04/20 Positive for Marijuana
2/02/20 Positive for Marijuana
1/31/20 Positive for Marijuana
1/28/20 Positive No-Show
1/27/20 Positive No-Show
1/24/20 Positive for Amphetamines, Methamphetamines and Marijuana
1/23/20 Positive No-Show
1/16/20 Positive No-Show
1/09/20 Positive No-Show
1/02/20 Positive No-Show

As to the Court directive that Mother participate in Family Dependency Drug Treatment Court program, Mother participated in the orientation for Family Dependency Drug Treatment Court on February 13, 2020. She also participated in the eligibility assessment on February 28, 2020. She participated in a drug and alcohol assessment on February 12, 2020 and Intensive Outpatient was recommended. She began receiving dual diagnoses services at Stairways Behavioral Health on March 2, 2020. *Court Summary, Permanency Review Hearing as to Minor Child M.H.R.,*

dated April 21, 2020, Petitioner's Exhibit 6, page 10.

As to the Court directive that Mother participate in a mental health evaluation, she participated in mental health evaluation on February 28, 2020, and commenced dual diagnoses services at Stairways Behavioral Health on March 2, 2020. ECCYS had not received her treatment plan or any updates on these services.

As to the Court directive that Mother obtain and maintain safe and stable housing, Mother resides with Father and her mother.

As to the Court directive that Mother obtain and maintain employment, Mother reported she would be working for Voices for Independence and will be paid to take care of her mother in the home. No paperwork was received verifying Mother's employment.

As to the Court directive that Mother participate in parenting education program, Amanda DiCola, her Family Reunification caseworker, indicated Mother was compliant in meeting with her.

As to the Court directive that Mother attend medical appointments, Mother attended Minor Child M.H.R.'s doctor appointment on February 28, 2020. Mother attempted to attend a doctor appointment for him in February 21, 2020, but the appointment was rescheduled for a later date. Mother was compliant in signing all necessary documentation requested by ECCYS. *Court Summary, Permanency Review Hearing as to Minor Child M.H.R., dated April 21, 2020, Petitioner's Exhibit 6, pages 10-11.*

After the hearing on April 21, 2020, Dependency Court entered its Order dated April 22, 2020, finding Mother had "moderate compliance with the permanency plan" and "moderate progress toward alleviating the circumstances which necessitated the original placement." The Order further stated, "placement with the child continues to be necessary and appropriate" and "current placement goal for child is to return to parent or guardian." Moreover, the Dependency Court directed legal and physical custody of Minor Child M.H.R. shall remain with ECCYS and placement of this Child would remain in Kinship Care, specifically paternal uncle and wife's Kinship Home. ECCYS Caseworker was directed to contact "the kinship provider to encourage in person visitation with" Mother and Father. The placement goal remained to return Minor Child M.H.R. to Mother and/or Father. The Dependency Court also directed Mother refrain from use of drugs and/or alcohol and submit to random urinalysis testing through color code program at Esper Treatment Center; continue to participate in Family Dependency Drug Treatment Court program and follow all recommendations; continue to participate in mental health services and follow all recommendations; obtain and/or maintain gainful employment and provide ECCYS with documentation she is employed and receives an income; secure and/or maintain safe and stable housing and provide proof to ECCYS; continue to participate in a parenting education program and demonstrate her ability to provide for Minor Child M.H.R.'s needs during visitation, and demonstrate her ability to provide for safety and well-being of Minor Child M.H.R. including Mother's attendance at his medical, dental, or any other necessary appointments. Dependency Court also stated "visitation shall continue with the Mother" and increase in frequency to unsupervised depending on Mother's progress in being drug and alcohol free. *Permanency Review Order for Minor Child M.H.R dated April 22, 2020, Petitioner's Exhibit 4, pages 1-4.*

On July 1, 2020, Second Permanency Review Hearing was held for nineteen- month-old

Minor Child M.H.R. The Court Summary indicates: On May 17, 2020, Mother's mother passed away unexpectedly. There is a concern Mother and Father continue to struggle with substance abuse. Mother recently tested positive for marijuana. As to Mother's refraining from drugs and alcohol, Covid-19 emergency has affected Mother's progress. Mother was unable to participate in random urinalysis testing through color code program. Mother participated in two one-time urinalysis screenings. On May 29, 2020 and June 11, 2020, Mother's results indicated Mother was positive for marijuana. To the Treatment team, Mother admitted she consumed an alcoholic beverage on the day her mother passed away. *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated July 1, 2020, Petitioner's Exhibit 6, pages 5-6.*

As to the Court directive that Mother participate in the Family Dependency Drug Treatment Court program, Mother on February 13, 2020 did participate in the orientation for Family Dependency Drug Treatment Court, and then on February 28, 2020, she participated in the eligibility assessment. Mother qualified for entry into the Dependency Drug Treatment Court as well as drug and alcohol services by meeting the criteria. Mother participated in drug and alcohol assessment on February 12, 2020, wherein Intensive Outpatient (IOP) was recommended. With the onset of the Covid-19 emergency, Family Dependency Drug Treatment Court did not occur from the middle of March 2020 until June 11, 2020. Mother did attend Court on June 11, 2020, and June 18, 2020. *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated July 1, 2020, Petitioner's Exhibit 6, page 6.*

As to the Court directive that Mother participate in mental health services, Mother participated in a mental health evaluation on February 28, 2020. On March 2, 2020, Mother commenced dual diagnoses services at Stairways Behavioral Health. Mother continued to have weekly mental health counseling sessions. No medication was prescribed, as Mother was pregnant and due in November 2020. Mother continued to receive drug and alcohol services twice weekly. Mother overslept for her appointment and, therefore, did not attend that appointment on June 17, 2020, and rescheduled her appointment, she reports, for June 19, 2020. Erie County Drug and Alcohol Office suggested to Mother she should participate in twelve step meetings, but Mother refused immediately and also said she would not attend the Smart program and other suggested programs. To the Treatment Court Team, Mother reported in the past she had attended Celebrity Recovery program, but she said she did not like it and informed the Treatment Court Team that she was not "a people person." Mother also refused suggested recovery podcasts. *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated July 1, 2020, Petitioner's Exhibit 6, page 6.*

As to the Court directive that Mother obtain employment, Mother was unemployed. As to the Court directive that Mother obtain secure and stable housing, Mother was currently living with Father. As to the Court directive that Mother participate in parenting education, Mother was compliant with Ms. DiCola, her Family Reunification Caseworker. Due to Mother's positive urine screen results, Mother was only able to participate in one, in-person visit with Minor child M.H.R. As to the Court directive that Mother attend Minor Child M.H.R.'s medical appointments, Mother had previously attended all of his medical appointments. Because of Covid-19 emergency, Mother was not able to attend the last couple medical appointments. *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated July 1, 2020, Petitioner's Exhibit 6, pages 6-7.*

At the hearing on July 1, 2020, Dependency Court found Mother had "moderate compliance with the permanency plan" and "moderate progress toward alleviating the circumstances which necessitated the original placement." The placement goal continued to be return to Mother and/or Father. Dependency Court found continued placement of Minor Child M.H.R. was necessary and appropriate. Moreover, Dependency Court directed continued placement of Minor Child M.H.R. in Kinship Care, specifically the paternal uncle and his wife's Kinship Home. Dependency Court further ordered Mother to, "Refrain from the use of drugs and/or alcohol and submit to random urinalysis testing through the color code program at the Esper Treatment Center; Continue to participate in the Family Dependency Drug Treatment Court program and follow all recommendations; Continue to participate in mental health services and follow all recommendations; obtain and/or maintain gainful employment and provide the Agency with documentation that she is employed and receives income; Maintain Stable and safe housing; Continue to participate in a parenting education program and demonstrate the ability to provide for [M.H.R.]'s needs during visitation; and Demonstrate the ability to provide for the safety and well-being of [Minor Child M.H.R.] to include attending medical, dental, or any other needed appointments." The Court Order also continued to provide Mother with supervised visitation once per week with her supervised visits increasing in frequency and/or duration according to Mother's progress with treatment services. Visitation would progress to unsupervised visitation if Mother was drug and alcohol free. If Mother had a positive urine result, Mother would forfeit a visit until Mother produced the next clean urine. *Permanency Review Order for Minor Child M.H.R. dated July 7, 2020, Petitioner's Exhibit 4.*

On October 1, 2020, the Erie County Family Dependency Treatment Court discharged Mother "for consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations." *See Erie County Case Management Assessment Outcome Letter, Petitioner's Exhibit 7A, page 33A.*

The second sibling is Minor Child P.A.R. born on October 18, 2020 in Chardon, Ohio. On October 20, 2020, upon verbal request of ECCYS, Dependency Court issued a verbal order granting emergency protective custody of Minor Child P.A.R. "as necessary for the welfare and best interest of the child, the verbal order was given due to the emergency nature of the removal and safety consideration of the child, any lack of services to prevent to prevent removal were reasonable." *Written Order dated October 21, 2020 for Verbal Authorization (Emergency Protective Custody) regarding Minor Child P.A.R. made on October 20, 2020, Petitioner's Exhibit 4.*

On October 23, 2020, a Shelter Care hearing was held as to Minor Child P.A.R. in Dependency Court. The Order stated sufficient evidence existed proving continuation or return of Minor Child P.A.R. to home of Mother and/or Father, was not in Minor Child P.A.R.'s best interest. Mother and Father did not appear at the time of this hearing. Minor Child P.A.R.'s Guardian Ad Litem agreed with continued shelter care pending further hearings. Placement of Minor Child P.A.R. remained with Kinship Care as least restrictive placement to meet her needs and no less restrictive alternative was available. ECCYS was directed to engage and continue in family finding in order to present its family finding efforts at the next court hearing. *Shelter Care Order for P.A.R. dated October 27, 2020, Petitioner's Exhibit 4.*

On November 2, 2020, Minor Child M.H.R.'s Third Permanency Review Hearing was held. The Court Summary indicated he was now twenty-three months old, and the length of his current placement was eleven months. Mother has an educational background of ninth grade. No aggravated circumstances were applicable. ECCYS recommended Reunification concurrent with Adoption. Mother and Father were evicted recently from their residence and were homeless. Mother consistently failed to attend Erie County Family Dependency Treatment Court proceedings, failed to submit to drug testing and was non-compliant with Treatment Court recommendations.

At the Third Permanency hearing for Minor Child M.H.R. held on November 2, 2020, Mother attended and was represented by counsel. The Court Summary explained as to whether Mother refrained from drugs and alcohol. For the period from July 1, 2020 through October 13, 2020, the Court Summary indicated Mother was to participate in thirty-six (36) urinalysis screenings, however, this Court Summary contains only the results for thirty-five (35) urinalysis screenings as indicated below. In summary, Mother had twenty-five (25) No Show Positives [Court Summary counted 9/28/20 twice]; four (4) Negative screenings; three (3) Positive Failure to Produce; one (1) Positive for Marijuana; one (1) positive for Methamphetamines; and one (1) Positive for Amphetamines, Methamphetamines and Marijuana. *See Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated November 2, 200020, Petitioner's Exhibit 6.*

Specific Results for Mother for July 1, 2020 through October 13, 2020 are:

10/11/20 Positive No Show
 10/08/20 Positive No Show
 10/07/20 Positive No Show
 10/05/20 Positive No Show
 10/03/20 Positive No Show
 10/01/20 Positive No Show
 9/28/20 Positive No Show
 9/26/20 Positive No Show
 9/24/20 Positive No Show
 9/22/20 Positive No Show
 9/20/20 Positive No Show
 9/15/20 Positive No Show
 9/13/20 Positive No Show
 9/10/20 Negative
 9/09/20 Positive Failure to Produce
 9/08/20 Positive for Amphetamines, Methamphetamines and Marijuana
 9/05/20 Positive No Show
 9/04/20 Positive No Show
 9/03/20 Positive No Show
 8/27/20 Positive No Show
 8/24/20 Positive No Show
 8/20/20 Positive No Show
 8/19/20 Positive Failure to Produce
 8/12/20 Positive No Show

8/10/20 Positive No Show
 8/07/20 Negative
 8/04/20 Positive No Show
 7/30/20 Negative
 7/27/20 Positive No Show
 7/23/20 Positive for Methamphetamines
 7/21/20 Positive No Show
 7/15/20 Positive No Show
 7/14/20 Positive Failure to Produce
 7/10/20 Positive for Marijuana
 7/06/20 Negative

See Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated November 2, 2020, Petitioner's Exhibit 6, pages 10-11.

As to the Court directive that Mother participate in mental health services, since Mother had positive urinalysis screen results, Erie County Drug and Alcohol recommended Mother participate in inpatient treatment. However, Mother "adamantly refused" inpatient treatment. Mother was then recommended to increase her drug and alcohol treatment sessions. Mother attended drug and alcohol sessions twice weekly and "has occasionally missed scheduled appointments." *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated November 2, 2020, Petitioner's Exhibit 6, page 9.*

As to the Court directive that Mother participate in parenting education, Mother has been compliant in meeting with Ms. DiCola, her Family Reunification caseworker. No visitation has occurred with Mother and Minor Child M.H.R. in "several months." Mother "was only able to participate in one in-person visit with Minor Child M.H.R. during entirety of this case due to her positive urinalysis test results." As to the Court directive that Mother obtain employment, Mother was unemployed. "Originally, [Mother] had stated that her doctor had told her she shouldn't be working due to her pregnancy; however, the treatment team later was informed that this was not the case and that [Mother] could in fact be working at this time." *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated November 2, 2020, Petitioner's Exhibit 6, pages 9-10.*

As to the Court directive that Mother maintain stable and safe housing, Mother was previously living with Father and evicted for nonpayment of rent on September 20, 2020. Mother was homeless. Mother owed "over \$4,000 in back rent" together with Father. *Court Summary for Permanency Review Hearing for Minor Child M.H.R., dated November 2, 2020, Petitioner's Exhibit 6, page 9.*

By Order dated November 4, 2020, Dependency Court stated Mother demonstrated "no compliance with the permanency plan" and "no progress toward alleviating the circumstances which necessitated the original placement." *Permanency Review Order for M.H.R. dated November 4, 2020, Petitioner's Exhibit 4, page 1.* Said Order further stated the placement plan dated November 2, 2020, developed for Minor Child M.H.R. is appropriate and feasible and, therefore, "[t]he current placement goal is NOT appropriate and/or NOT feasible." Dependency Court directed Minor Child M.H.R.'s new placement goal be return to parent as uncertain regarding the projected date, concurrent with the new placement of Adoption. Dependency Court also directed legal and physical custody of the child shall remain with the

Erie County Office of Children and Youth; placement of the Child shall remain in Kinship Care, specifically paternal uncle and his wife's Kinship Home. Minor Child M.H.R. was in placement for eleven (11) months. Dependency Court directed Mother to comply with the following: refrain from use of drugs and/or alcohol and submit to random urinalysis testing through color code program at Esper Treatment Center; continue to participate in Family Dependency Drug Treatment Court program and follow all recommendations; continue to participate in mental health services and follow all recommendations; participate in a drug and alcohol assessment and follow all recommendations; obtain and/or maintain gainful employment and provide ECCYS with documentation she is employed and receives income; maintain stable housing and provide ECCYS with a signed lease; continue to participate in a parenting education program and demonstrate her ability to provide for Minor Child M.H.R.'s needs during visitation; and demonstrate her ability to provide for the safety and well-being of Minor Child M.H.R. including her attending medical, dental, or any other needed appointments. Mother was granted supervised visitation with Minor Child M.H.R. once per week. Visits increased in frequency and/or duration. Visitation shall also progress unsupervised once deemed appropriate by ECCYS. All visitation was contingent upon Mother being drug and alcohol free. If a positive urine result was received, Mother would not have a visit until her next clean urine. *Permanency Review Order for M.H.R. dated November 4, 2020, Petitioner's Exhibit 4, pages 1-4.*

Also on November 2, 2020, both Adjudication and Dispositional Hearings were held as to Minor Child P.A.R. The Order dated November 12, 2020 states after an adjudication hearing, ECCYS presented testimony from Michelle Rash, Ongoing Caseworker, and Marie Stover of Ashtabula County, Ohio Children and Youth Services. After this testimony, Minor Child P.A.R.'s Guardian Ad Litem agreed with adjudicating Minor Child P.A.R. dependent consistent with the reasons as stated in ECCYS's Dependency Petition. Dependency Court found and concluded clear and convincing evidence existed demonstrating Minor Child P.A.R. was a Dependent Child in that she was without proper parental care or control, subsistence, education as required by law, or other care or control necessary for her physical, mental, or emotional health, or morals. Parties also agreed to proceed immediately to the Dispositional Hearing. *Order of Adjudication and Disposition for P.A.R. dated November 12, 2020, Petitioner's Exhibit 4, page 1.*

The Pre-Dispositional Summary dated November 2, 2020, regarding Minor Child P.A.R. was admitted without objection and states: Minor Child P.A.R. tested positive for Amphetamines and Opiates at birth. Minor Child P.A.R.'s meconium test results revealed Minor Child P.A.R. was positive for Amphetamines, Methamphetamines and Cannabinoids. Minor Child P.A.R. remained in the hospital after birth and was discharged from the hospital to kinship care with paternal uncle and his wife on October 21, 2020. Recommended goal was reunification. On October 25, 2020, Minor Child P.A.R. was transported and admitted to UPMC Hamot Emergency Room due to her fever and signs of drug withdrawal. Upon admission, Minor Child P.A.R. was treated and tested. Both Minor Children were placed together at the same Kinship Care home (paternal uncle and wife's home) so Minor Child P.A.R. can be with her older brother, Minor Child M.H.R. Mother has no prior criminal history except Mother was listed as having pending criminal charges: Offense date of August 30, 2020 for alleged use/possession of drug paraphernalia and failure to use safety belt for the driver

and front seat occupant. Mother has a prior child welfare history as reported by Ashtabula County, Ohio OCY. In 2014, Mother had four children removed from her custody. Then in November 2017, Ashtabula County, Ohio Children Youth Services received permanent custody of those four children. Mother was reported to be abusing drugs, specifically, Methamphetamine. Mother did not participate in either drug and alcohol counseling or mental health counseling. Mother did not have safe and stable housing. Mother admitted at the time of the permanent custody hearing she was still using drugs, specifically Methamphetamine. *Pre-Dispositional Summary, November 2, 2020, Exhibit 6, pages 2-4 and 6.*

The Dependency Court found in the best interest of Minor Child P.A.R., she had to be removed from the home of Mother and Father based upon findings of abuse, neglect or dependency of Minor Child P.A.R. She remained in Kinship Care. The current placement goal was to return to Mother and Father concurrent with the goal of Adoption. Mother was directed to follow same directives she received earlier for Minor Child M.H.R. as to drug and alcohol testing and treatment recommendations, participate in mental health services, gainful employment, stable housing, parenting education and participate in medical and other necessary appointments for Minor Child P.A.R. Mother received supervised visitation with frequency to decreased level of supervision based on Mother's progress. *Order of Adjudication and Disposition for P.A.R. dated November 12, 2020, Petitioner's Exhibit 4, page 1-4.*

On February 1, 2021, combined Permanency Hearings were held for both Minor Children. The Court Summary indicates this was Minor Child M.H.R.'s Fourth Permanency Review Hearing and Minor Child P.A.R.'s First Permanency Hearing. Minor Child M.H.R. has been in placement for "under fourteen months" while Minor Child P.A.R. has been in care for "a little over three months." Mother was to participate in a total of thirty-two (32) urinalysis screenings from November 2, 2020 to January 13, 2021. However, out of those thirty-two (32) screenings, Mother had thirty-two (32) No Show Positives. Mother's drug addiction had a negative effect on her ability to parent. ECCYS recommended a permanency goal change to Adoption for both Minor Children. Mother participated in Intensive Outpatient Treatment sessions through telehealth for weekly individual sessions and no further documentation provided. She self-reported her clean date was October 22, 2020. *Court Summary for Permanency Review Hearing for Both Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner's Exhibit 6, pages 1-7.*

Moreover, as to the directive Mother participate in mental health services, ECCYS received information on November 17, 2020, that Mother participated in therapy one time per week and her doctor was working with Mother on prescribing medications, but no updates were received, and Mother did not provide any further documentation. Mother had not attended any medical appointments for Minor Children during this review period. Mother had not seen Minor Child P.A.R. since she was discharged from the hospital after her birth. Mother was only able to participate in one in-person visit with Minor Child M.H.R. during the entire case since Mother had positive urine screen test results. As to housing, Mother stays at a motel in Geneva, Ohio. *Court Summary for Combined Permanency Review Hearing for Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner's Exhibit 6, page 5-7.*

After hearings on February 1, 2021, as to both Minor Children, Dependency Court found by Order dated February 3, 2021, Mother had made "no compliance with the permanency plan" and "no progress toward alleviating the circumstances which necessitated the original

placement.” Placement of Minor Child M.H.R. was noted as thirteen (13) months and continued as necessary and appropriate. Placement of Minor Child P.A.R. was noted as three (3) months and continued as necessary and appropriate. Dependency Court ordered new permanent placement goal of Adoption. Placement of both Minor Child M.H.R. and Minor Child P.A.R. was to remain in Kinship Care, specifically paternal uncle and his wife’s Kinship Home. Dependency Court ordered no further services for Mother, including visitation at this time, ECCYS shall proceed with termination of Mother’s parental rights and pursue Adoption as the permanent placement goal for Minor Child M.H.R., and complete all necessary paperwork, so that an Adoption may occur. *Permanency Review Order for Minor Child M.H.R., dated February 3, 2021, Petitioner’s Exhibit 4, pages 1-3, and Permanency Review Order for Minor Child P.A.R. dated February 3, 2021, Petitioner’s Exhibit 4, pages 1-3.*

On March 11, 2021, ECCYS filed the instant Petitions to Terminate Involuntarily Mother’s parental rights to each of these Minor Children. The IVT Trial was scheduled for July 13, 2021. Immediately before said IVT Trial, Mother and Father requested to appear by telephone because they indicated their vehicle was having difficulties and they could not appear in person. The IVT Court permitted both Mother and Father to appear by telephone as they both requested. Mother and Father were each represented by counsel. Mother was represented by her counsel, Emily Merski, Esq., who appeared in-person at this IVT Trial. Assistant Solicitor Kevin C. Jennings appeared in person on behalf of ECCYS. W. Charles Sacco, Esq. appeared in person on behalf of Father. Deanna L. Heasley, Esq. appeared in person as Legal Counsel on behalf of both Minor Children who are Minor Child M.H.R. and Minor Child P.A.R. [collectively Minor Children].

This IVT Court heard testimony from the following witnesses who this IVT Court finds provided credible testimony: Michelle Rash, ECCYS Caseworker; Michael Vicander, ECCYS Caseworker; and Amanda DiCola, Family Services of NWPA.

Petitioner’s Exhibits 1 through 12 were stipulated by all counsel for admission into the record, and this IVT Court admitted said Exhibits into evidence without any objections raised. For the period from 1/2/20 to 1/29/21, Petitioner’s Exhibit 10 indicates Mother had four (4) Negative test results; eighty (80) Positive No Shows; three (3) Could Not Produce; one (1) Specimen Leaked in Transit; and twenty-four (24) Positive screen results that included two (2) for Methamphetamine/ Amphetamine/THC, one (1) for Methamphetamine, and all remaining were for THC. Only Exhibits related to Mother are relevant for this Appeal.

Michelle DuShole, Dependency Treatment Court Liaison Officer, testified in her dual role as Drug and Alcohol Unit worker and as one of the Coordinators for Family Dependency Treatment Court. *See N.T., July 13, 2021, 10:20-22.* Ms. DuShole has held the position of Treatment Court Liaison since June 2014, and entails acting as a liaison officer for Family Dependency Treatment Court, ECCYS and treatment providers that parents utilize. *See N.T., 11:12-18.* As further clarified by Ms. Dushole, Family Dependency Treatment Court is a multidisciplinary team that meets weekly and specializes in high need parents who have substance abuse issues, as well as mental health issues. The goal of Family Dependency Treatment Court is to help parents (ECCYS participants) obtain and maintain sobriety by weekly meetings where parents talk about their strengths and needs as parents try to reunify with their children as “an accountability kind of program.” *See N.T., 11:22-25, 12:7-14.* Ms. DuShole indicated this program is “all about dependency.” *See N.T., 12:24-25, 13:1.*

Ms. DuShole explained Mental Health Probation is held at 9:30 a.m.; Family Dependency is held at 11:00 a.m.; and Drug Court is held at 1:30 in the afternoon. *See N.T., 13:4-7.* The treatment team is led by a judge, with an assistant district attorney, a public defender, probation officers, coordinators from Erie County Drug and Alcohol and Erie County Care Management as well as treatment providers from Erie County’s drug and alcohol and mental health components. *See N.T., 13:10-15.* Ms. DuShole stated both Mother and Father were accepted into this program. *See N.T., 13:16-18.* Ms. DuShole coordinated with Esper on the drug tests and reported Mother and Father in particular came in with substance issues, with the use of meth, THC, amphetamines.” *See N.T., 14:4-8, 14:9-13.* Mother and Father had housing issues in that they were close to eviction throughout the entire time they participated in the program. If not for the Covid moratorium, Mother and Father would have been evicted from where they were living most of the time. *See N.T., 14:20-25, 15:1-5.* Mother and Father had employment issues in that “they had multiple job positions, but they would leave or change and just wouldn’t stick with a job.” *See N.T., 15:10-15.* Transportation was also an issue throughout the Treatment Court in that “most of the times that they missed court, they cited transportation issues of one form or the other.” Their truck “that broke down” or a vehicle was a transportation issue throughout, and they were not able to go to Treatment Court meetings, visits and urines. *See N.T., 15:16-25, 16:1-7.* However, Ms. DuShole stated she and other treatment providers were trying to help them in that regard. *See N.T., 16:8-12.* Mother and Father were both assessed to enter Treatment Court on February 28, 2020. They were found eligible and accepted into the program and began going to Court on March 5, 2020, and then unsuccessfully discharged on October 1, 2020, seven months roughly. *See N.T., 16:15-19.*

From end of March 2020 until end of June 2020, Ms. DuShole stated Mother and Father did fairly well in terms of progress with drug and alcohol treatment and telehealth appointments, but after that time period, their attendance became quite sporadic. *N.T., 18:5-7.* During the same period of time in terms of random urine analysis, “there’s a lot of no-shows.” Mother had four (4) Negative tests, three (3) Could Not Produce tests, eleven (11) Positive tests and twenty-three (23) No Show tests. *See N.T., 18:17-19, 19:1-10.* Moreover, throughout the life of this case as reflected in Petitioner’s Exhibit 10, in terms of random urine screenings, Mother had four (4) Negative test results; three (3) test results where she Could Not Produce; eighty (80) No Shows and one (1) result indicating Leaked in Transit test and twenty-four (24) Positives. *See N.T., 19:11-21.* Mother continued to use drugs “essentially” throughout her pregnancy. Further, Ms. DuShole confirmed Mother last tested positive for marijuana in July of 2020 and positive for meth and marijuana in September 2020 and Minor Child P.A.R. was born thereafter in October 2020. *N.T., 20:9-13.* In this regard, Ms. DuShole explained having “our first” conversation with Mother on July 30th in 2020 about Mother attending inpatient drug and alcohol and mental treatment for serious drug difficulties “because of her high risk with the pregnancy and her high needs.” Mother said she had already done inpatient treatment at some point and was not going to do that again. She had no desire to do so. *N.T., 20:14-22.* Ms. DuShole then offered to meet Mother in “kind of in the middle” in that Mother was to increase drug and alcohol and mental health treatment via telehealth which Mother did. However, Mother was still “riddled” with no-shows and “riddled” with positives periodically when Mother did show for Esper. *N.T., 20:22-24, 21:1-5.* Additionally, a note dated September 17 of 2020, Petitioner’s Exhibit 7A, at page 27A, indicates, “inpatient

treatment was recommended for the mother for her drug and alcohol issues, but she didn't want to go, because she didn't want to put her dog into shelter." N.T., 21:6-9, 22:2-5. Ms. DuShole explained she had a second conversation with Mother about inpatient treatment on September 3, 2020, and Mother declined the second time for the same reason about the dog. N.T., 22:6-9. And Mother declined help for shelter at another time. N.T., 22:9-12. Drug and alcohol and housing issues were major issues for Mother throughout this entire case.

As to Mother's intention to move to Ohio, Ms. DuShole confirmed the treatment team explained "in a couple conversations" to both parents what issues there would be if they moved to Ohio when the treatment plans and court orders in Pennsylvania had plans for reunification. N.T., 23:1-19. Ms. DuShole and another coordinator explained to Mother the dependency process under court order and the treatment plan in that the judge follows the case, and ECCYS follows the case. Mother was informed she was required to do certain things for reunification to take place, and if Mother moved to Ohio, it would have been difficult in terms of services since it's already been difficult in Pennsylvania, let alone moving to another state. "How are you going to access the services? How are you even going to ultimately reunify? We would love for you to stay. We would like for you to work a treatment plan, but if your decision is to move, we can't stop you. It's going to make things a lot harder." N.T., 23:20-25; N.T., 24:1-7.

Ms. DuShole stated after being evicted on September 24, 2020, these parents spent some time in Conneautville where Mother has family, but Ms. DuShole did not know if they fully moved to Ohio because her end of the case was done on October 1st. N.T., 24:16-23. Ms. DuShole further confirmed things started to fall off in July throughout September, which is the same time period Mother was talking about moving to Ohio. N.T., 24:24-25; N.T., 25:1-14.

Ms. DuShole further stated the Covid pandemic affected the functioning of Treatment Court until June 11, 2020 when Treatment Court resumed in-person. N.T., 25:17-25. The Treatment team still provided services such as contact via e-mail with all treatment providers, including Miss Rash who provided close monitoring of Mother. When in-person attendance resumed for Treatment Court, participants were expected to appear in-person as well. N.T., 26:4-11. Ms. DuShole confirmed when Mother moved to Ohio, Mother was aware of the impact of Covid on everyone's lives. N.T., 26:12-18. By October of 2020, Mother had not made any progress as to housing issues, drug and alcohol rehabilitation, and her last virtual visit was June 29, 2020. N.T., 26:19-25; N.T., 27:1-6.

In assessing Mother's progress for Treatment Court, Ms. DuShole stated Mother was "accepted into Stairways outpatient program, as well as Stairways mental health program," which initially Mother had done biweekly. N.T., 28:14-19. Due to Covid, all telehealth services were provided. N.T., 28:20-21. However, Mother did not progress beyond Phase 1, the level at which Treatment Court begins, although prior to Covid, Mother was attending and participating with her counselors. N.T., 29:3-12; N.T., 29:8-12.

When asked about Mother's drug testing positive results for marijuana, Ms. DuShole stated drug abuse was "a significant factor" so Mother was advised to participate in inpatient services since telehealth is more difficult. N.T., 29:13-25. Mother "never completed" IOP, because due to Covid, everything was shut down. Although Mother "increased her weekly drug and alcohol sessions weekly" and mental health attendance, Mother never demonstrated the type of progress to even consider moving her to Phase 2. N.T., 30:3-11. Some participants thrived

on telehealth services. N.T., 30:12-16. When asked about the virtual program standards during the pandemic, Ms. DuShole stated "for almost three months" the support mechanism worked through telephone and e-mails consistently. N.T., 31:24-25. Ms. DuShole confirmed Mother during that time continued to meet with the provider at Stairways, continued to participate in drug and alcohol counseling and mental health counseling, and at that point she was not on medication to manage her mental health because she was pregnant. N.T., 32:15-25. When face-to-face resumed, Mother was still participating in Treatment Court; however, after July, Mother started missing appointments with her providers, no-shows were still continuing and there was a discussion about Mother's "just sheer frustration" in not being able to visit Minor Child M.H.R. because of her not getting to the drug screens to have negative screens for visits with Minor Child M.H.R. N.T., 33:1-12. Ms. DuShole stated Mother was "living still in Girard in the trailer" in July and presented "a lot of truck issues and car issues," despite ECCYS offering Mother transportation assistance. N.T., 33:18-25; N.T., 34:1-4.

Ms. DuShole confirmed Mother was ultimately "dismissed from Treatment Court" in October of 2020. N.T., 34:22-23.

Amanda DiCola, an employee from Family Services of Northwest PA, credibly testified. N.T., 43:3-5. She was assigned this case on January 15 of 2020 and worked with Mother until February of 2021. N.T., 43:12-13. When Ms. DiCola first received this case, Mother had a need for housing, drug and alcohol and also mental health and parenting. N.T., 44:3-7. Ms. DiCola confirmed when she ended her services, Mother was still working on those same four issues. N.T., 44:12-17.

Ms. DiCola stated Mother did not pay the rent for the trailer where she resided from January 2020 until approximately September 10, 2020. N.T., 45:12-19. The landlord was owed \$4,553.00. N.T., 45:21. On September 1st, Mother received the eviction notice. N.T., 45:23-24. Ms. DiCola recommended that in order to prevent eviction, Mother could use the money from the pandemic unemployment that amounted to \$10,000.00, and Mother could complete Section 8 housing applications as well as completing the application for Governor Wolf's monies. However, Ms. DiCola confirmed Mother did not follow through with that. N.T., 46:8-25.

From September 2020 through February 2021, Mother was unable to give a current address. N.T., 47:23-25; N.T., 48:1. Ms. DiCola confirmed Mother obtained a job that she could perform during early stages of pregnancy, and she was employed at Wendy's restaurant for a while but later just quit and at Foam Fabricators, and she quit there too. N.T., 49:11-19. Ms. DiCola also confirmed Mother would apply for jobs at a temporary placement agency and would be hired, but then Mother would quit. Ms. DiCola also recommended Mother apply to a temporary agency in Ohio, but Mother provided no documentation as to her attempts in Ohio. N.T., 51:1-12. As to transportation, Ms. DiCola also explained Mother "declined" to use the free bus passes provided by ECCYS where busses do run through Girard; however, Mother indicated she had her own transportation. Mother had vehicles that broke down all the time. N.T., 52:13-20; N.T., 53:3-7.

As to drug and alcohol treatment, Ms. DiCola stated Mother continued to decline inpatient alcohol treatment even though such treatment could have helped her stabilize and possibly assist Mother with any housing concerns. N.T., 54:5-8. Ms. DiCola confirmed Mother's visits with Minor Child M.H.R. were "extremely limited" due to her no-shows at urine

screens. Mother was cautioned that if she did not have negative urines, Mother was unable to see her Minor Children, especially where Mother did not provide any reason why she was not engaging in urine screens. N.T., 55:24-25, 56:1-15. When Mother was asked to attend urinalysis screenings at the Esper Treatment Center in Erie, Mother's reasoning for not going to the Esper Treatment Center was that Mother and Father were living in Ohio. N.T., 57:4-8. Ms. DiCola even recommended Mother bring a copy of the Court Order with her in case she was pulled over by law enforcement because of Covid. N.T., 57:9-12; N.T., 57:17-25; N.T., 58:2-3. Ms. DiCola confirmed by the time she completed the work with Mother in February 2021, Mother had not been able to remedy the reasons that led to her Minor children being placed in foster care. N.T., 59:19-23.

Ms. DiCola also observed the trailer where Mother was living. Mother had trouble maintaining the trailer in a clean condition. Mother was also evicted for being behind in rent. The eviction also entailed property damage. The outside of the trailer was not maintained well. N.T., 60:22-25; N.T., 61:1-3. Ms. DiCola further stated that even though during the thirteen (13) months Mother was provided services, Mother would come into Erie and meet with her in Erie, but "they really weren't making any progress." N.T., 66:9-11, 67:14-16, 67:25; 68:1 Ms. DiCola informed Mother that she was experienced in this area, and Mother was not doing enough. N.T., 69:8-24. For the convenience of Mother, Ms. DiCola would meet Mother "in the community even in the Girard area, closer to the state line" in order to counteract Mother saying she had car problems and could not meet with Ms. DiCola. N.T., 72:6-9, 73:1-10.

ECCYS Caseworker Michelle Rash provided credible testimony. In particular, Ms. Rash stated during December 19, 2019 through April 26, 2020, Mother had one (1) Positive urine screen for marijuana, amphetamines and methamphetamine; seventeen (17) Positive tests for marijuana; one (1) Positive for a leak-in-transit; and six (6) Positive No Shows. *See* N.T., 80:12-20. Caseworker Rash further stated, Mother did participate in orientation treatment court and did participate in a drug and alcohol assessment where intensive outpatient care was recommended. Mother began dual diagnosis services at Stairways on March 2nd with her intensive case manager Leann. *See* N.T., 80:21-25. On February 28, 2020, Mother had a mental health evaluation and was scheduled for mental health intake on March 9, 2020; however, Mother missed that appointment, but Mother did go on March 10, 2020. *See* N.T., 81:1-7.

Caseworker Rash confirmed services were offered to Mother after April 20, 2020, through Zoom and by telephone. *See* N.T., 81:16-22. For the following review period in July of 2020, and as the Covid restrictions began to change, Caseworker Rash had not seen any change in how Mother was interacting. *See* N.T., 83:3-8. On May 29 of 2020 and June 11 of 2020, Mother tested positive for marijuana. *See* N.T., 83:11-13. Between April to July 1, 2020, Mother continued visitation with Minor Child M.H.R. through Zoom video chat lasting for fifteen minutes. *See* N.T., 84:3-16. Caseworker Rash confirmed discussing with Mother as to Mother being pregnant and still using drugs, but Mother continued to use. *See* N.T., 86:2-14. The newly born Minor Child P.A.R. was found to be drug exposed for Methamphetamine. Since Minor Child P.A.R. was discharged from the hospital, Caseworker Rash confirmed Mother did not have any visits with Minor Child P.A.R. *See* N.T., 86:25, 87:1-13.

Caseworker Rash confirmed between July of 2020 and November of 2020, Mother went from having "moderate compliance" to "no compliance." *See* N.T., 87:18-22. In particular,

between July 1 of 2020 and October 13 of 2020, Mother was to participate in thirty-six (36) urine screens. Mother had twenty-six (26) No Shows; four (4) Negatives; three (3) Failure To Produce; one (1) Positive for marijuana and one (1) for methamphetamine, and one (1) for amphetamines, meth, and marijuana. *See* N.T., 88:1-5. On October 1, 2020, Mother was discharged from treatment court due to her consistent failure to attend court, her failure to submit to drug testing, and her non-compliance with treatment recommendations. *See* N.T., 88:7-15. When providers started seeing Mother face-to-face, Mother "was pretty argumentative" and "wouldn't take responsibility for any of her actions." Mother would blame ECCYS and/or other service providers for her own shortcomings or Mother would make excuses as to why she was not doing what she needed to do in the Court Order. *See* N.T., 89:7-11. Caseworker Rash also reported about an "unpleasant interaction" with Mother during a team meeting at Mother's residence in Girard. Mother communicated to Caseworker Rash "she was going to go to the State of Ohio to have her baby so Erie County wouldn't be involved with that child as well." *See* N.T., 89:12-25.

Caseworker Rash confirmed she also had conversations explaining to Mother as to "how difficult that would make things to move to Ohio." Also Ms. DiCola and Ms. DuShole, as well as the Dependency judge at the November 2 hearing, made it very clear to Mother that if she decided to live in the State of Ohio, it was Mother's responsibility from that point on to seek out her own services that she needed. Mother was cautioned that she would still be responsible to do her urine screens at the Esper Treatment Center. *See* N.T., 90:1-20.

In November, when Adoption was established as the concurrent goal with reunification, Mother reported to Caseworker Rash that she was staying in a tent and then in a camper and their vehicle. *See* N.T., 90:21-25. Mother also said she was staying with other family members in Ohio and at the Geneva Motel in Ohio. *See* N.T., 90:21-25, 91:9-16. As to transportation assistance when Mother was living in Girard, Mother was offered gas cards which Mother accepted, but Caseworker Rash confirmed Mother's ability to transport herself did not improve. *See* N.T., 101:6-22.

Mother dropped out of services January of 2021, and Mother was still claiming to be a resident in Ohio at that time. As to visitation with either of her children, May of 2020 was the actual last in person visit. *See* N.T., 92:3-5, 92:11-13, 92:20-23. When asked how Minor Child M.H.R. is doing since he has been in care, Caseworker Rash stated Minor Child M.H.R. "has been doing great." He is "meeting all his milestones." The pre-adoptive home of paternal uncle was "meeting all of his needs." A "very strong, healthy bond" exists between Minor Child M.H.R. exists in his pre-adoptive home with his paternal uncle and his wife. *See* N.T., 94:9-12. Officer Rash stated Minor Child M.H.R. has experienced no negative or detrimental effect after not seeing his Mother since the May 2020 in-person visit or virtually since June of 2020. *See* N.T., 94:13-17. He has had no negative effects by not seeing his Mother for over a year, and he will be three in November. And Minor Child P.A.R. "hasn't seen her parents since she was born" and her paternal uncle and his wife in her pre-adoptive home "are the only parents that she's known." *See* N.T., 94:22-23, 95:1-3. Mother has done nothing to remedy the conditions that led to the placement of her children. N.T., 95:8-10. Caseworker Rash confirmed it would be in both of these Minor Children's best interest if the Mother's parental rights were involuntarily terminated since "the mother has not made any progress on her court ordered treatment plan." N.T., 95:21-24, 96:1-2. Minor Child M.H.R. has been in care with his paternal

uncle and his wife “for 19 months which is over half of his life....” Minor child P.A.R. “has been in care for her entire life, which is approximately nine months.” N.T., 96:1-5. In fact, neither Minor Child M.H.R. nor Minor Child P.A.R. do not even recognize Mother as their mother. Caseworker Rash stated “it would be more detrimental to not terminate [Mother’s] parental rights.” *See* N.T., 96:3-11.

Michael Scott Vicander credibly testified as an ECCYS Permanency Caseworker for both of these Minor Children. *See* N.T., 116:23-25. Caseworker Vicander stated both Minor Child M.H.R. and Minor Child P.A.R. “are doing very well in their current placement,” “all their needs are being met,” and confirmed paternal uncle and his wife are an available adoptive resource. *See* N.T., 117:6-12, 118:15-17. The children are undoubtedly thriving there. Caseworker Vicander maintained termination of parental rights is in “the best interest of these children” because Minor Child M.H.R. and Minor Child P.A.R. have not seen their Mother in-person since June 2020. *See* N.T., 117:16-19. In addition, Mother was not able to rectify the situation that led to their placement. *See* N.T., 117:21-25. Caseworker Vicander confirmed there would be no negative effect on both Minor Children if Mother’s rights were terminated. *See* N.T., 118:1-6.

H.J.S., Mother to both Minor Child M.H.R. and Minor Child P.A.R. also testified. Mother testified her current mailing address is her grandfather’s house since Mother was not sure as to whether her mail would get to Ohio. *See* N.T., 120:11-25. Mother confirmed she understands ECCYS is petitioning the Court to terminate her rights which would mean, if granted, the law would no longer identify her as the Mother to either Minor Child M.H.R. or Minor Child P.A.R. N.T., 122:8-15. Mother admitted she was using marijuana when asked about her positive test results, but she added “my levels were going down.” N.T., 122:25. She testified, “I stopped smoking.” N.T., 123:2. However, she testified that even though she was passing and her levels were going down, she still was not seeing Minor Child M.H.R. *See* N.T., 123:1-6. Mother also testified, “I had the one visit, and then the second visit that I was supposed to go see him, they said they didn’t have transportation.” *See* N.T., 123:7-10. Mother testified, “I am legally prescribed marijuana” and she currently began this use starting from “January or February 2021” for “PTSD, for mental health.” *See* N.T., 123:13-23. Mother also testified she is currently in treatment for drug addiction at “Community Counseling Center” in Ohio, but her “intensive outpatient, which is IOP” has not begun yet, but she is now willing to participate in those services. N.T., 124:4-25, 125:8-9. Mother admitted “being resistant to ECCYS recommendations for drug and alcohol treatment in the past.” N.T., 125:10-13. Mother also testified, “I am seeing a counselor” and as to her mental health, Mother testified she is bipolar and has PTSD, depression, ADD and ADHD. *See* N.T., 125:18-25. *See* N.T., 126:1-5. Mother testified she is not using any other medication at the moment, because the medication she was taking continued to have her test positive for amphetamines, so she had to stop taking it. *See* N.T., 126:9-15. When asked about said medication, Mother recalled it was “Wellbutrin” and she was taking it towards the end of her pregnancy. N.T., 133:9-10, 133:19-21. Mother also testified she asked the doctor about changing medication and his suggestion was to “up the dose”. *See* N.T., 126:16-23. Mother testified she never mentioned this mental health information to the Court because she was never allowed to talk in court. She claimed she was never given a chance to talk in Court, and she answered the questions she was asked. *See* N.T., 134:17-20, 135:1-3. When asked about testing positive for marijuana in September 2020, Mother testified she used marijuana for the

last time when “[her] mom passed away” in early June 2020 but it took almost three months to get it out of my system the first time. *See* N.T., 131:24-25, 132:1-12, 132:21-25.

Mother further testified at that time that although she is not currently employed, she is “receiving unemployment,” specifically \$495 a week and is receiving “the pandemic assistance.” Mother has also “just put in the application in for food stamps and medical.” *See* N.T., 126:24-25, 127:1-6; *See* N.T., 131:9-11. Mother also testified she is living in a house where she has a room in the house, but also has a camper. Her friend, Tiffany, is the owner of this house and lives there in the house too with her husband. *See* N.T., 127:9-25. However, Mother testified she has no lease and does not necessarily pay rent, but if Mother has money and her friend needs money, Mother will help her friend. *See* N.T., 128:1-11. Without any verification, Mother testified she is able to take care of Minor Child M.H.R. and Minor Child P.A.R. because she believes she now has a place to take her Minor Children to reside with her. She testified how she loves her Minor Children and she was and is a good mom. Mother believes what happened with these placements was not fair. *See* N.T., 129:2-8.

GROUND FOR TERMINATION — Section 2511(a) (1), (2), (5), (8), and (b)

As to 23 Pa.C.S. § 2511 (a)(1), (a)(2), (a)(5) and (a)(8) and (b) for involuntary termination of Mother’s parental rights, case law is clear “[p]arental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

The party petitioning for termination of parental rights has the burden of proving by clear and convincing evidence the parent’s conduct satisfies statutory grounds for termination under Section 2511(a). *In re L.M.*, 923 A.2d 505, 511 (Pa. Super. 2007). The trial court is the finder of fact who is the sole determiner of the credibility of witnesses and resolves all conflicts in testimony. *Id.* at 1115-1116. Pursuant to 23 Pa.C.S. § 2511, the trial court must conduct a bifurcated analysis wherein the court’s initial focus is on the conduct of the parent. *In re L.M.*, 923 A.2d at 511. Only if the court determines a parent’s conduct necessitates termination of her parental rights under Section 2511 (a), the court then proceeds to decide the second part of the bifurcated analysis as to the needs and welfare of the child under the standard of best interests of the child under Section 2511 (b). *Id.*

The specific relevant statutory grounds for terminating involuntarily a parent’s rights are stated in 23 Pa.C.S. § 2511(a)(1), (2), (5), and (8) as well as 23 Pa.C.S. § 2511(b):

§ 2511. Grounds for involuntary termination

(a) General rule. — The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

(1) The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

...

(2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

...

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

...

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

...

(b) Other considerations. — The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

Generally, Pa.C.S. § 2511 (a) states parental rights to a child may be terminated if any one of the grounds under Section 2511 (a) is proven by clear and convincing evidence. *In re Z.P.*, 994 A.2d at 1117. In a termination of parental rights case, the standard of “clear and convincing evidence” means the testimony is so “clear, direct, weighty, and convincing” for the trial judge as the trier of fact to arrive at “a clear conviction, without hesitation, of the truth of the precise facts in issue.” *Id.* at 1116.

“Parents are required to make diligent efforts toward the reasonably prompt assumption of full parental responsibilities.” *In re Z.P.*, 994 A.2d at 1117-1118 (quoting *In re A.L.D.*, 797 A.2d at 340). “A parent’s vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous.” *Id.* at 1118 (quoting *In re A.L.D.*, 797 A.2d 326, 340 (Pa. Super. 2002)).

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in the development of the child. Thus, this court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent exert himself to take and maintain a place

of importance in the child’s life. Parental duty requires that the parent act affirmatively with good faith interest and effort, and not yield to every problem, in order to maintain the parent-child relationship to the best of his ... ability, even in difficult circumstances. A parent must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship. **Parental rights are not preserved by waiting for a more suitable or convenient time to perform one’s parental responsibilities while others provide the child with the child’s physical and emotional needs.** *In re Z.P.*, 994 A.2d at 1118-1119 (quoting *In re B.*, *N.M.*, 856 A.2d at 855).

“A court may terminate parental rights under Section 2511(a)(1) where the parent demonstrates a settled purpose to relinquish parental claim to a child or fails to perform parental duties for at least six months prior to filing of the termination petition.” *In re Z.P.*, 994 A.2d at 1117 (citing *In re C.S.*, 761 A.2d 1197, 1201 (Pa. Super. 2000)). “Our Supreme Court has stated: ‘Section 2511 does not require that the parent demonstrate both a settled purpose of relinquishing parental claim to a child and refusal or failure to perform parental duties. Accordingly, parental rights may be terminated pursuant to Section 2511(a)(1) if the parent either demonstrates a settled purpose of relinquishing parental claim to a child or fails to perform parental duties.’” *In Re: I.B.T.L., A Minor Appeal of: S.L., Mother*, 1230 MDA 2020 (Pa. Super. Ct. April 9, 2021) (quoting *In re Adoption of Charles E.D.M.*, 708 A.2d 88, 91 (Pa. 1998)). “The court should consider the entire background of the case and not simply: mechanically apply the six-month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his ... parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.” *In re Z.P.*, 994 A.2d at 1117 (quoting *In re B.*, *N.M.*, 856 A.2d 847, 855 (Pa. Super. 2004)).

As to 23 Pa.C.S. § 2511(a)(1), this IVT Court will consider the entire background of this case and, as indicated by recent case law, will not simply mechanically apply the six-month statutory provision as to each Minor Child. The timeline of Mother’s progress and the lack of her progress is as follows from the Findings of Fact above:

As to Minor Child M.H.R., evidence was presented by Caseworker Amanda Kimmy at the adjudication hearing on December 19, 2019, wherein Mother appeared late for the hearing despite receiving proper notification. Caseworker Kimmy reported her concerns about the transiency of Mother’s housing and Mother’s drug use concerns.

At Permanency Review Hearing held on April 21, 2020, as to seventeen-month-old Minor Child M.H.R. although, in the beginning, Mother and Father “were resistant to services; however, they have been more open and compliant with services over the past month.” Mother participated in assessments for drug and alcohol and mental health treatment and were scheduled to participate in needed treatment services. Mother became more consistent in attending urinalysis screens within the past month. Mother continued to test positive for marijuana, but the level of marijuana in her system appeared to be decreasing. ECCYS continued to monitor Mother’s compliance and progress.

Between December 19, 2019 and April 16, 2020, Mother was to participate in a total of twenty-five urinalysis screenings. Of these screenings, Mother had a total of one Positive for Amphetamine, Methamphetamine and Marijuana, seventeen (17) Positive for Marijuana,

one Positive Quantity not sufficient for analysis (specimen leaked in transit), and six (6) Positive No-Shows.

Mother participated in orientation for the Family Dependency Drug Treatment Court program on February 13, 2020, and participated in the eligibility assessment on February 28, 2020, as well as a drug and alcohol assessment on February 12, 2020, wherein Intensive Outpatient was recommended. Mother began dual diagnoses services at Stairways Behavioral Health on March 2, 2020. Mother reported working for Voices for Independence and being paid to take care of her own mother in mother's home. No paperwork was received verifying Mother's employment. Mother was compliant with parenting education program. Mother attended Minor Child M.H.R.'s doctor appointment on February 28, 2020. Mother was compliant in signing all necessary documentation requested by ECCYS.

At the hearing on April 21, 2020, Dependency Court found Mother had "moderate compliance with the permanency plan" and "moderate progress toward alleviating the circumstances which necessitated the original placement." The Order stated, "placement with the child continues to be necessary and appropriate" and "current placement goal for child is to return to parent or guardian."

At Second Permanency Review Hearing for Minor Child M.H.R. held on July 1, 2020, for nineteen-month-old Minor Child M.H.R., Court learned that Mother's mother passed away unexpectedly on May 17, 2020. Mother recently tested positive for marijuana. Mother participated in two one-time urinalysis screenings, on May 29, 2020, and June 11, 2020, with both positive for marijuana. Mother admitted to Family Dependency Drug Treatment team she consumed an alcoholic beverage on the day her mother passed away.

With the onset of Covid-19 emergency, Family Dependency Drug Treatment Court did not occur from the middle of March 2020 until June 11, 2020. Mother did attend Court on June 11, 2020, and June 18, 2020.

Mother participated in a mental health evaluation on February 28, 2020. On March 2, 2020, Mother commenced dual diagnoses services at Stairways Behavioral Health. Mother continued to have weekly mental health counseling sessions. No medication was prescribed, as Mother was pregnant and due in November 2020. Mother continued to receive drug and alcohol services twice weekly. Mother overslept for her appointment and, therefore, did not attend that appointment on June 17, 2020, and rescheduled her appointment, she reported, for June 19, 2020. Mother was suggested to participate in Twelve Step meetings, but Mother refused immediately and said she would not attend the Smart program and other suggested programs. Mother reported she had attended Celebrity Recovery program in the past, but she did not like it because she was not "a people person." Mother also refused suggested recovery podcasts.

Mother remained unemployed but was compliant with her Family Reunification Caseworker. Due to Mother's positive urine screen results, Mother qualified for only one, in-person visit with Minor child M.H.R.

On July 1, 2020, Dependency Court found Mother had "moderate compliance with the permanency plan" and "moderate progress toward alleviating the circumstances which necessitated the original placement." Placement goal continued to be return to Mother with placement of Minor Child M.H.R. in Kinship Care, specifically paternal uncle and his wife's Kinship Home.

On October 1, 2020, the Erie County Family Dependency Treatment Court discharged

Mother "for consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations." See *Erie County Case Management Assessment Outcome Letter, Petitioner's Exhibit 7A, page 33A*.

Minor Child P.A.R. was born on October 18, 2020 in Chardon, Ohio, and Dependency Court issued a verbal order granting emergency protective custody. On October 23, 2020, at the Shelter Care hearing, Mother did not appear.

On November 2, 2020, at Minor Child M.H.R.'s Third Permanency Review, he was now twenty-three months old, and in placement for eleven months. Mother's educational background was of ninth grade. No aggravated circumstances were applicable. As Mother was evicted by her Landlord from her residence, Mother was now homeless. Mother attended this hearing and was represented by counsel. For the period from July 1, 2020 through October 13, 2020, Mother's results of thirty-five (35) urinalysis screenings were: twenty-five (25) No Show Positives [Court Summary counted 9/28/20 twice]; four (4) Negative screenings; three (3) Positive Failure to Produce; one (1) Positive for Marijuana; one (1) positive for Methamphetamines; and one (1) Positive for Amphetamines, Methamphetamines and Marijuana. Inpatient treatment was recommended, but Mother "adamantly refused." Mother was then recommended to increase her drug and alcohol treatment sessions and attended drug and alcohol sessions twice weekly and "has occasionally missed scheduled appointments."

No visitation occurred with Mother and Minor Child M.H.R. in several months. Mother was only able to participate in one in-person visit with Minor Child M.H.R. during entirety of this case due to her positive urinalysis test results.

Mother was evicted for nonpayment of rent on September 20, 2020. Mother remained homeless and owed "over \$4,000 in back rent" together with Father. The Order dated November 4, 2020, stated Mother demonstrated "no compliance with the permanency plan" and "no progress toward alleviating the circumstances which necessitated the original placement." Minor Child M.H.R.'s placement goal changed to return to parent concurrent with Adoption and in placement for eleven (11) months.

Also on November 2, 2020, Minor Child P.A.R. became a Dependent Child. Minor Child P.A.R. tested positive for Amphetamines and Opiates at birth. Minor Child P.A.R.'s meconium test results revealed Minor Child P.A.R. was positive for Amphetamines, Methamphetamines and Cannabinoids. Minor Child P.A.R. remained in the hospital after birth and was discharged from the hospital to kinship care with paternal uncle and his wife on October 21, 2020. Recommended goal was reunification. On October 25, 2020, Minor Child P.A.R. transported and admitted to Emergency Room due to her fever and signs of drug withdrawal, and upon admission, treated, tested, and then placed with her brother at same Kinship Care home of paternal uncle and wife's home.

Mother has no prior criminal history except Mother was listed as having pending criminal charges: Offense date of August 30, 2020 for alleged use/possession of drug paraphernalia and failure to use Safety belt for the driver and front seat occupant. Mother has a prior child welfare history as reported by Ashtabula County, Ohio OCY: In 2014, Mother had four children removed from her custody. Then in November 2017, Ashtabula County, Ohio Children Youth Services received permanent custody of those four children. Mother was reported to be abusing drugs, specifically, Methamphetamine. Mother did not participate in either drug and alcohol counseling or mental health counseling. Mother did not have safe

and stable housing. Mother admitted at the time of the permanent custody hearing she was still using drugs, specifically Methamphetamine, as per *the Pre-Dispositional Summary, November 2, 2020, Exhibit 6, pages 2-4 and 6.*

On February 1, 2021, at Minor Child M.H.R.'s Fourth Permanency Review Hearing and Minor Child P.A.R.'s First Permanency Hearing, Minor Child M.H.R. in placement under fourteen months while Minor Child P.A.R. in care for a little over three months. Results of Mother's thirty-two (32) urinalysis screenings from November 2, 2020 to January 13, 2021: thirty-two (32) No Show Positives. Mother's drug addiction had a negative effect on her ability to parent. Dependency Court changed the permanency goal change to Adoption for both Minor Children. Mother participated in Intensive Outpatient Treatment sessions through telehealth for weekly individual sessions.

On November 17, 2020, Mother participated in mental health therapy one time per week and her doctor was working with her on prescribing medications, she did not provide any further documentation. Mother had not attended any medical appointments for Minor Children during this review period. Mother had not seen Minor Child P.A.R. since she was discharged from the hospital after her birth. Mother was only able to participate in one in-person visit with Minor Child M.H.R. during the entire case since Mother had positive urine screen test results.

On February 1, 2021, Dependency Court found Mother had "no compliance with the permanency plan" and "no progress toward alleviating the circumstances which necessitated the original placement." Placement of Minor Child M.H.R. was thirteen (13) months and placement of Minor Child P.A.R. was three (3) months.

For January 2, 2020 through January 29, 2021, in Petitioner's Exhibit 10, Mother had: four (4) Negative test results; eighty (80) Positive No Shows; three (3) Could Not Produce; one (1) Specimen Leaked in Transit; and twenty-four (24) Positives including two (2) Methamphetamine/Amphetamine/THC, one (1) for Methamphetamine and all remaining were THC. Mother did not progress beyond Phase 1, the level at which Family Dependency Treatment Court begins, although prior to Covid, Mother was attending and participating with her counselors. N.T., 29:3-12; N.T., 29:8-12. Ms. DiCola confirmed when she ended her services, Mother was "still working on the same issues." As to drug and alcohol, Ms. DiCola stated Mother "continued to decline inpatient alcohol treatment" even though such treatment "would help her stabilize and assist her with any housing concerns." N.T., 53:22-25; N.T., 54:1-8.

Mother's visits with Minor Child M.H.R. were "extremely limited" due to her no-shows at urine screens. Mother was cautioned that if she did not have negative urines, Mother would be unable to see her children, especially where she provided no reason for not engaging in urine screens. N.T., 55:24-25, 56:4-15. When Mother was asked to attend urinalysis screenings at Esper Treatment Center in Erie, Mother said she was now living in Ohio. Mother continued to use drugs "essentially" throughout her pregnancy. Further, Ms. DuShole confirmed Mother tested last positive for marijuana in July of 2020 and positive for meth and marijuana in September 2020 and then Minor Child P.A.R. was born in October 2020. N.T., 20:9-13. Mother was warned about her high risk with the pregnancy and her high needs. Mother said she had already done inpatient treatment at some point and was not going to do that again as she had no desire to do so. N.T., 20:14-22. Ms. DuShole then offered to meet Mother in "kind of in the middle" in that Mother was to increase drug and alcohol and mental health treatment

via telehealth which Mother did. However, when Mother did show for Esper, Mother still presented "riddled" with no-shows and "riddled" with positives periodically. N.T., 20:22-24, 21:1-5. Additionally, she stated a note dated September 17 of 2020, Petitioner's Exhibit 7A, page 27A, indicates "inpatient treatment was recommended for the mother for her drug and alcohol issues, but she didn't want to go, because she didn't want to put her dog into shelter." N.T., 21:6-9, 22:2-5. Mother declined the second time for the same reason. N.T., 22:6-9. Mother declined help for shelter another time. N.T., 22:9-12. Drug and alcohol and housing issues were major issues for Mother throughout this entire time.

Mother was warned more than sufficiently that her choosing to move to Ohio would make it difficult for her to receive services. N.T., 23:20-25; N.T., 24:1-7. Ms. DuShole further confirmed things started to fall off in July throughout September at the same time of Mother talked about moving to Ohio. N.T., 24:24-25; N.T., 25:1-14.

After examining the individual circumstances of each Minor Child's case and considering all explanations offered by Mother facing termination of her parental rights, the evidence, in light of the totality of the circumstances, clearly warrants that this IVT terminate Mother's parental rights as to each Minor child, specifically Minor Child M.H.R. and Minor Child P.A.R. under 23 Pa.C.S. § 2511(a)(1). Indeed, ECCYS has met its burden of proof with clear and convincing evidence that Mother's conduct satisfies statutory grounds for termination under Section 2511(a)(1). The evidence, including but not limited to, numerous Exhibits and testimony are so "clear, direct, weighty, and convincing" for this IVT judge as the trier of fact to arrive at "a clear conviction, without hesitation, of the truth of the precise facts in issue" regarding Mother. Mother by her conduct demonstrated a settled purpose for at least a period of six months to relinquish her parental claim to each Minor Child, specifically Minor Child M.H.R. and Minor Child P.A.R. Moreover, the facts also support and demonstrate Mother failed to perform her parental duties for at least six months prior to the filing of each Termination Petition.

Regarding 23 Pa.C.S. § 2511(a)(2), "the following three elements must be met: (1) repeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied." *In re: Involuntary Termination of Parental Rights: A.T.V., A Minor Appeal of: H.M., Mother*, 1243 MDA 2020, 2021 WL 1235223, at *5 (Pa. Super. Ct. Apr. 1, 2021) (quoting *In re Adoption of M.E.P.*, 825 A.2d 1266, 1272 (Pa. Super. 2003)). "Unlike subsection (a)(1), subsection (a)(2) does not emphasize a parent's refusal or failure to perform parental duties, but instead emphasizes the child's present and future need for essential parental care, control or subsistence necessary for his physical or mental well-being. Therefore, the language in subsection (a)(2) should not be read to compel courts to ignore a child's need for a stable home and strong, continuous parental ties, which the policy of restraint in state intervention is intended to protect. This is particularly so where disruption of the family has already occurred and there is no reasonable prospect for reuniting it." *In re Z.P.*, 994 A.2d at 1117 (quoting *In re E.A.P.*, 944 A.2d 79, 82 (Pa. Super. 2008)). "Thus, while 'sincere efforts to perform parental duties,' can preserve parental rights under subsection (a)(1), those same efforts may be insufficient to remedy parental incapacity under subsection (a)(2)." *In re Z.P.*, 994 A.2d at 1117 (quoting *In re Adoption of M.J.H.*, 501 A.2d 648 (Pa. Super. 1985)). Moreover, the Pennsylvania Supreme Court

in *In re Adoption of Michael J.C.*, 506 Pa. 517, 525, 486 A.2d 371, 375 (1984), stated, “a more appropriate reading of the statute [23 Pa.C.S. § 2511(a)(2)] is that when a parent has demonstrated a continued inability to conduct [her] ... life in a fashion that would provide a safe environment for a child, whether that child is living with the parent or not, and the behavior of the parent is irremediable as supported by clear and competent evidence, the termination of parental rights is justified.”

As to 23 Pa.C.S. § 2511(a)(2) in the instant case, on February 1, 2021, Minor Child M.H.R.’s Fourth Permanency Review Hearing was held as well as Minor Child P.A.R.’s first Permanency Hearing. *Court Summary for Combined Permanency Review Hearing for Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner’s Exhibit 6 at page 6-7.* Mother had “no compliance with the permanency plan” and “no progress toward alleviating the circumstances which necessitated the original placement.” *Permanency Review Order, dated February 3, 2021, Petitioner’s Exhibit 4.*

Mother had “a need for housing, drug and alcohol and also mental health and parenting.” N.T., 44:3-7. Ms. DiCola confirmed when she ended her services, Mother was “still working on the same issues.” N.T., 44:12-16; N.T., 69:22-24. Ms. DiCola clarified even though during the thirteen months Ms. DiCola provided services for Mother, Mother was not really making any progress. N.T., 66:9-11, 67:14-15, 67:25, 68:1. Mother was not doing enough.

Mother failed to pay her rent and owed landlord \$4,553.00. N.T., 44:21. Mother and/or Father received \$10,000 from pandemic unemployment but did follow through with Section 8 housing at that time. N.T., 44:8-20.

Mother was to participate in 36 urines but had: 26 no shows; 4 negatives; 3 failure to produce; one 1 positive for marijuana and 1 for methamphetamine, and 1 for amphetamines, meth, and marijuana. *See* N.T., 88:1-5. Mother “was pretty argumentative” with providers and “wouldn’t take responsibility for any of her actions.” Mother blamed ECCYS and other service providers or would make excuses as to why she wasn’t doing what she needed to do on the court order. *See* N.T., 89:7-11.

Caseworker Rash confirmed services were offered to Mother after April 20, 2020, through Zoom and by telephone. *See* N.T., 81:16-22. For the following review period in July of 2020, and as the Covid restrictions began to change, Caseworker Rash had not seen any change in how Mother was interacting. *See* N.T., 83:3-8. On May 29 of 2020 and June 11 of 2020, Mother tested positive for marijuana. *See* N.T., 83:11-13. Between April to July 1, 2020, Mother continued visitation with Minor Child M.H.R. through Zoom video chat lasting for fifteen minutes. *See* N.T., 84:3-16. Caseworker Rash confirmed discussing with Mother as to Mother being pregnant and still using drugs, but Mother continued to use. *See* N.T., 86:2-14. The newly born Minor Child P.A.R. was found to be drug exposed for Methamphetamine. Since Minor Child P.A.R. was discharged from the hospital, Caseworker Rash confirmed Mother did not have any visits with Minor Child P.A.R. *See* N.T., 86:25, 87:1-13.

Caseworker Rash confirmed between July of 2020 and November of 2020, Mother went from having “moderate compliance” to “no compliance.” *See* N.T., 87:18-22. In particular, between July 1 of 2020 and October 13 of 2020, Mother was to participate in thirty-six (36) urine screens. Mother had twenty-six (26) No Shows; four (4) Negatives; three (3) Failure To Produce; one (1) Positive for marijuana and one (1) for methamphetamine, and one (1) for amphetamines, meth, and marijuana. *See* N.T., 88:1-5. On October 1, 2020, Mother was

discharged from treatment court due to her consistent failure to attend court, her failure to submit to drug testing, and her non-compliance with treatment recommendations. *See* N.T., 88:7-15. When providers started seeing Mother face-to-face, Mother “was pretty argumentative” and “wouldn’t take responsibility for any of her actions.” Mother would blame ECCYS and/or other service providers for her own shortcomings or Mother would make excuses as to why she was not doing what she needed to do in the Court Order. *See* N.T., 89:7-11. Caseworker Rash also reported about an “unpleasant interaction” with Mother during a team meeting at Mother’s residence in Girard. Mother communicated to Caseworker Rash “she was going to go to the State of Ohio to have her baby so Erie County wouldn’t be involved with that child as well.” *See* N.T., 89:12-25.

Caseworker Rash confirmed she also had conversations explaining to Mother as to “how difficult that would make things to move to Ohio.” Also Ms. DiCola and Ms. DuShole, as well as the Dependency judge at the November 2 hearing, made it very clear to Mother that if she decided to live in the State of Ohio, it was Mother’s responsibility from that point on to seek out her own services that she needed. Mother was cautioned that she would still be responsible to do her urine screens at the Esper Treatment Center. *See* N.T., 90:1-20.

On October 1, 2020, the Erie County Family Dependency Treatment Court discharged Mother “for consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations.”

In November, when Adoption was established as the concurrent goal with reunification, Mother reported to Caseworker Rash that she was staying in a tent and then in a camper and their vehicle. *See* N.T., 90:21-25. Mother also said she was staying with other family members in Ohio and at the Geneva Motel in Ohio. *See* N.T., 90:21-25, 91:9-16. As to transportation assistance when Mother was living in Girard, Mother was offered gas cards which Mother accepted, but Caseworker Rash confirmed Mother’s ability to transport herself did not improve. *See* N.T., 101:6-22.

Mother dropped out of services January of 2021, and Mother was still claiming to be a resident in Ohio at that time. As to visitation with either of her children, May of 2020 was the actual last in person visit. *See* N.T., 92:3-5, 92:11-13, 92: 20-23. When asked how Minor Child M.H.R. is doing since he has been in care, Caseworker Rash stated Minor Child M.H.R. “has been doing great.” He is “meeting all his milestones.” The pre-adoptive home of paternal uncle was “meeting all of his needs.” A “very strong, healthy bond” exists between Minor Child M.H.R. in his pre-adoptive home with his paternal uncle and his wife. *See* N.T., 94:9-12. Officer Rash stated Minor Child M.H.R. has experienced no negative or detrimental effect after not seeing his Mother since the May 2020 in-person visit or virtually since June of 2020. *See* N.T., 94:13-17. He has had no negative effects by not seeing his Mother for over a year, and he will be three in November. And Minor Child P.A.R. “hasn’t seen her parents since she was born” and her paternal uncle and his wife in her pre-adoptive home “are the only parents that she’s known.” *See* N.T., 94:22-23, 95:1-3. Mother has done nothing to remedy the conditions that led to the placement of her children. N.T., 95: 8-10. Caseworker Rash confirmed it would be in both of these Minor Children’s best interest if the Mother’s parental rights were involuntarily terminated since “the mother has not made any progress on her court ordered treatment plan.” N.T., 95:21-24, 96:1-2. Minor Child M.H.R. has been in care with his paternal uncle and his wife “for 19 months which is over half of

his life....” Minor child P.A.R. “has been in care for her entire life, which is approximately nine months.” N.T., 96:1-5. In fact, neither Minor Child M.H.R. nor Minor Child P.A.R. do not even recognize Mother as their mother. Caseworker Rash stated “it would be more detrimental to not terminate [Mother’s] parental rights.” See N.T., 96:3-11.

During the instant IVT trial, Mother confirmed she understands ECCYS is petitioning the Court to terminate her rights which would mean the law would no longer identify her as the Mother to either Minor Child M.H.R. and Minor Child P.A.R. N.T., 122:8-15. However, Mother claimed she is able to take care of Minor Child M.H.R. or Minor Child P.A.R. “because [she] has a place to take them to” and “[she] loves [her] children and [she] was a good mom; [she] does not think what happened was fair.” See N.T., 129:2-8. Mother is living in a house where she only has a room, but also has a camper. Her friend, Tiffany, is the owner of this house, and lives there too, with her husband. See N.T., 127:9-25. Mother does not necessarily pay rent, but if Mother has money and her friend needs it, Mother will “help her.” See N.T., 128:1-11. Mother admitted using marijuana when asked about her positive test results, but failed to blame herself for not seeing her son. See N.T., 123:1-6. Mother testified she is bipolar and has PTSD, depression, ADD and ADHD. See N.T., 125:18-25. See N.T., 126:1-5.

Minor Child M.H.R. and Minor Child P.A.R. “are doing very well in their current placement” and the paternal uncle and his wife as Kinship Care is an adoptive resource for them. See N.T., 116:6-12, 118:15-17. Caseworker Vicander maintained terminating Mother’s parental rights is in “the best interest of these children” because neither Minor Child M.H.R. nor Minor Child P.A.R. have seen Mother in person since June of 2020. See N.T., 117:16-19. In addition, he stated, “parents weren’t able to rectify the situation that led to their placement.” See N.T., 117:21-25. Caseworker Vicander confirmed there would be “no negative effect” on either Minor Child if Mother’s rights would be terminated. See N.T., 118:1-6.

Therefore, under 23 Pa.C.S. § 2511(a)(2), ECCYS has proven by clear and convincing evidence that Mother’s incapacity and neglect have caused Minor Child M.H.R. and Minor Child P.A.R. to be without essential parental care and control. Mother cannot and has not remedied the causes of her incapacity and neglect as to each of these Minor Children, specifically Minor Child M.H.R. and Minor Child P.A.R. Mother has demonstrated a continued inability to conduct her life in a fashion that would provide a safe environment for either or both of these Minor Children, whether that child was living with that parent or not, and her behavior is irremediable as supported by clear and competent evidence thereby justifying granting ECCYS’s both Petitions to terminate Mother’s parental rights in the instant case.

Section 2511(a)(5) requires that: “(1) the child has been removed from parental care for at least six months; (2) the conditions which led to the child’s removal or placement continue to exist; (3) the parents cannot or will not remedy the conditions which led to removal or placement within a reasonable period time; (4) the services reasonably available to the parents are unlikely to remedy the conditions which led to removal or placement within a reasonable period of time; and (5) termination of parental rights would best serve the needs and welfare of the child.” *In the Interest of D.D-E.L.*, 1513 MDA 2020, at 7-8 (Pa. Super. Ct. April 14, 2021) (citing *In re B.C.*, 36 A.3d 601, 607 (Pa. Super. 2012)); 23 Pa.C.S.A. § 2511(a)(5).

“To terminate parental rights pursuant to 23 Pa.C.S. § 2511(a)(8), the following factors must be demonstrated: (1) the child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or placement

of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child.” *In re Z.P.*, A.2d at 1118 (quoting *In re Adoption of M.E.P.*, 825 A.2d at 1275-1276); 23 Pa.C.S. § 2511(a)(8).

“Termination under Section 2511(a)(8) does not require the court to evaluate a parent’s current willingness or ability to remedy the conditions that initially caused placement or the availability or efficacy of Agency services.” *In re Z.P.*, 994 A.2d at 1118 (citing *In re Adoption of T.B.B.*, 835 A.2d 387, 396 (Pa. Super. 2003); *In re Adoption of M.E.P.*, 825 A.2d at 1275-1276). “Additionally, to be legally significant, the post-abandonment contact must be steady and consistent over a period of time, contribute to the psychological health of the child, and must demonstrate a serious intent on the part of the parent to recultivate a parent-child relationship and must also demonstrate a willingness and capacity to undertake the parental role. The parent wishing to reestablish his parental responsibilities bears the burden of proof on this question.” *In re Z.P.*, 994 A.2d at 1119 (quoting *In re D.J.S.*, 737 A.2d 283, 286 (Pa. Super. 1999)).

Regarding 23 Pa.C.S. § 2511(a)(5) & (8), on October 1, 2020, Mother was discharged from Treatment Court due to her consistent failure to attend Court proceedings, failure to submit to drug testing, and non-compliance with treatment recommendations. See N.T., 88:7-11. See *Petitioner’s Exhibit 7A at page 33A* Mother did not progress beyond Phase 1, the level at which Treatment Court starts, even though “prior to Covid she was attending and participating with her counselors.” N.T., 29:3-12; N.T., 29:8-12. Mother’s test results indicated Mother’s results of positive for marijuana were “a significant factor” and, therefore, Mother was advised to participate in inpatient services because telehealth is more difficult. N.T., 29:13-25. Although Mother “increased her weekly drug and alcohol sessions weekly” and “mental health” attendance, Mother never showed “the type of progress to even consider moving her to Phase 2. N.T., 30:3-11.

On February 1, 2021, combined Permanency Hearings were held for both Minor Children. The Court Summary indicates this was Minor Child M.H.R.’s Fourth Permanency Review Hearing and Minor Child P.A.R.’s First Permanency Hearing. Minor Child M.H.R. has been in placement for “under fourteen months” while Minor Child P.A.R. has been in care for “a little over three months.” Mother was to participate in a total of thirty-two (32) urinalysis screenings from November 2, 2020 to January 13, 2021. However, out of those thirty-two (32) screenings, Mother had thirty-two (32) No Show Positives. Mother’s drug addiction had a negative effect on her ability to parent. *Court Summary for Permanency Review Hearing for Both Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner’s Exhibit 6, pages 1-7.*

Mother had not seen Minor Child P.A.R. since she was discharged from the hospital after her birth. Mother was only able to participate in one in-person visit with Minor Child M.H.R. during the entire case since Mother had positive urine screen test results. As to housing, Mother stays at a motel in Geneva, Ohio. *Court Summary for Combined Permanency Review Hearing for Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner’s Exhibit 6, page 5-7.*

After hearings on February 1, 2021, as to both Minor Children, Dependency Court found by Order dated February 3, 2021, Mother had made “no compliance with the permanency plan” and “no progress toward alleviating the circumstances which necessitated the original

placement.” Placement of Minor Child M.H.R. was noted as thirteen (13) months and continued as necessary and appropriate. Placement of Minor Child P.A.R. was noted as three (3) months and continued as necessary and appropriate. *Permanency Review Order for Minor Child M.H.R., dated February 3, 2021, Petitioner’s Exhibit 4, pages 1-3, and Permanency Review Order for Minor Child P.A.R. dated February 3, 2021, Petitioner’s Exhibit 4, pages 1-3.*

During the IVT trial, Mother testified about “being resistant to ECCYS recommendations for drug and alcohol treatment in the past.” N.T., 125:18, 126:1-5. *See* N.T., 125:10-13. Mother also testified she is currently in treatment for drug addiction at “Community Counseling Center” in Ohio, but intensive outpatient, which is IOP has not started yet. N.T., 124:4-25. Mother provided mere excuses for her positive results without accepting any responsibility and blamed medical professionals for giving the wrong medication and increased dosages of “Wellbutrin” while she was pregnant. N.T., 133:9-10, 133:19-21.

For the period from 1/2/20 to 1/29/21, Petitioner’s Exhibit 10 indicates Mother had four (4) Negative test results; eighty (80) Positive No Shows; three (3) Could Not Produce; one (1) Specimen Leaked in Transit; and twenty-four (24) Positive screen results that included two (2) for Methamphetamine/ Amphetamine/THC, one (1) for Methamphetamine, and all remaining were for THC.

On October 1, 2020, the Erie County Family Dependency Treatment Court discharged Mother “for consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations.”

Caseworker Rash confirmed Mother had not made any progress on her court ordered treatment plan. In fact, Minor Child M.H.R. and Minor Child P.A.R. do not even recognize Mother as their mother. Caseworker Rash stated, “it would be more detrimental to not terminate Mother’s parental rights.” *See* N.T., 95:15-25, 96:1-11.

Therefore, under 23 Pa.C.S. §§ 2511(a)(5) & (8), ECCYS has proven by clear and convincing evidence the conditions leading to these Minor Children’s removal still exist. Mother cannot and will not remedy these conditions within a reasonable period of time. Mother has refused to utilize the services available to her to remedy these conditions leading to these Minor Children’s removal within a reasonable period of time. Therefore, termination of Mother’s parental rights will best serve the needs and welfare of these Minor Children.

Since this IVT Court has determined above that ECCYS has proven by clear and convincing evidence Mother’s conduct necessitates involuntary termination of her parental rights under Section 2511 (a), this IVT Court must now proceed to conduct the second part of the statutory bifurcated analysis as to the needs and welfare of each child under the best interests standard pursuant to 23 Pa.C.S. § 2511(b).

Although the statutory provision in Section 2511(b) does not contain the term “bond,” our appellate case law requires the Orphans’ Court judge evaluate the emotional bond, if any, between the parent and child, as a factor in the determination of the child’s developmental, physical and emotional needs. *In the Matter of K.K.R.-S.*, 958 A.2d 529, 533 (Pa. Super. 2008)). “In cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists. The extent of any bond analysis, therefore, necessarily depends on the circumstances of the particular case.” *In the Interest of: D.D.-E.L.*, 1513 MDA 2020, at 14 (citing *In re K.Z.S.*, 946 A.2d 753, 762-63 (Pa. Super. 2008)). “Additionally ... the trial court should consider the importance of continuity of relationships and whether any existing parent-

child bond can be severed without detrimental effects on the child.” *Id.* “When conducting a bonding analysis, the court is not required to use expert testimony.” *In re Z.P.*, 994 A.2d at 1121 (citing *In re K.K.R.-S.*, 958 A.2d at 533). “Social workers and caseworkers can offer evaluations as well.” *In re Z.P.*, 994 A.2d at 1121 (citing *In re A.R.M.F.*, 837 A.2d 1231 (Pa. Super. 2003)). “In addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as love, comfort, security, and stability the child might have with the foster parents.” *In re Adoption of C.D.R.*, 111 A.3d 1212, 1219 (Pa. Super. 2015).

In the instant case as to 23 Pa.C.S. §2511(b), this IVT Court will now examine and evaluate whether termination of Mother’s parental rights is in the best interests of each of these Minor Children. In the instant case, Minor Child M.H.R. has remained in Kinship Care, specifically the paternal uncle and his wife’s Kinship Home. Minor Child P.A.R. is at the same Kinship care home with her older brother Minor Child M.H.R. *Permanency Review Order for Minor Child M.H.R. dated April 22, 2020, Petitioner’s Exhibit; Shelter Care Order for P.A.R. dated October 27, 2020, Petitioner’s Exhibit 4. Court Summary, Permanency Review Hearing as to Minor Child M.H.R. dated April 21, 2020, Petitioner’s Exhibit 6 at page 2. Court Summary for Combined Permanency Review Hearing for Minor Child M.H.R. and Minor Child P.A.R., dated February 1, 2021, Petitioner’s Exhibit 6 at page 6-7.*

Mother “dropped out of services January of 2021” and the parents were “still claiming to be residing in Ohio at that time.” As to visitation with either of their children, May of 2020 was the actual last in-person visit. *See* N.T., 92:3-5, 92:11-13, 92: 20-23. When asked how Minor Child M.H.R. is doing since he has been in care, Caseworker Rash answered he “has been doing great.” The Kinship paternal uncle and his wife “are meeting all of his needs” and there is a “healthy bond between them.” *See* N.T., 94:9-12. Caseworker Rash responded Minor Child M.H.R. has not had suffered a “detrimental effect by not seeing his parents since the May 2020 in-person visit or the virtual visit in June of 2020. *See* N.T., 94:13-17. Minor Child P.A.R. “hasn’t seen her parents since she was born” and her Kinship paternal uncle and his wife are the only parents she has known. *See* N.T., 1-3. Caseworker Rash confirmed “it would be in these children’s best interest if the mother’s parental rights were to be involuntarily terminated” since “mother has not made any progress on her court ordered treatment plan.” Neither Minor Child M.H.R. nor Minor Child P.A.R. “don’t even recognize [Mother] as their mother.” Caseworker Rash stated “it would be more detrimental to not terminate Mother’s parental rights.” *See* N.T., 95:15-25, 96:1-11. Indeed, the parent-child bond with each Minor Child is a “healthy one” with the paternal uncle and his wife, not with the Mother.

Caseworker Vicander credibly stated Minor Child M.H.R. and Minor Child P.A.R. “are doing very well in their current placement” and confirmed “this would be an adoptive resource.” *See* N.T., 116:6-12, 118:15-17. Caseworker Vicander maintained that termination of parental rights is in “the best interest of these children” because Minor Child M.H.R. and Minor Child P.A.R. have not seen their Mother “in person since June 2020.” *See* N.T., 117:16-19. In addition, “parents weren’t able to rectify the situation that led to their placement.” *See* N.T., 117:21-25. As confirmed by Caseworker Vicander, there would be “no negative effect” on either Minor Child if Mother’s rights were terminated. *See* N.T., 118:1-6.

This IVT Court has considered and adopts the statements made by Minor Children’s Legal

Counsel, Attorney Deanna L. Heasley, at the conclusion of the IVT Trial. Deanna L. Heasley, the attorney for each Minor Child, stated Minor Child M.H.R. will be three years old this November while Minor Child P.A.R. is nine months old. Based on their young ages, Attorney Heasley candidly stated, “it is my belief that their legal and best interests merge, and that is what I’m representing to the Court in how I have proceeded today.” *See* N.T., 147:1-8. Attorney Heasley indicated, in “the final review period prior to the goal being changed,” Mother had not attended any urinalysis tests. During that same period, as per Exhibit 12B, “there were two meetings with Miss DiCola” who would meet Mother in the Girard area. *See* N.T., 147:11-17. Attorney Heasley noted the inconsistencies from Mother: “This is very inconsistent with parents’ alleged issues with transportation and their alleged car problems to get into Erie to complete other services, including urinalysis.” *See* N.T., 147:17-23. Mother was unsuccessfully discharged from Family Dependency Treatment court on October 1 for non-compliance due to Mother’s consistent failure to attend, and failure to submit to drug testing. *See* N.T., 147:24-25, 148:1-2. Mother was evicted with Father from their residence in September, at which time they owed \$4,000.00 in back rent. Attorney Heasley rhetorically remarked, “what happened with the \$10,000 that they could have used to purchase reliable transportation, if in fact, that was their problem and to secure a residence.” *See* N.T., 148:6-12.

Attorney Heasley stated, “nothing has changed” from when Minor Child M.H.R. came into care at the end of 2019. *See* N.T., 148:13-15. Attorney Heasley indicated Minor Child P.A.R. was born positive for amphetamines and opiates and is in an early intervention tracking program. After Minor Child P.A.R.’s discharge to kinship care, she was readmitted at another hospital for treatment and testing due to a fever and signs of withdrawal. Attorney Heasley disagreed with Mother that Wellbutrin was the cause. Instead, Attorney Heasley stated, “I attribute that to the mother’s addiction issues that she failed to address.” *See* N.T., 148:16-25.

This IVT Court finds and concludes that indeed nothing has changed with Mother. Minor child M.H.R. and P.A.R. need to move onto permanency, and in fact, these Minor Children deserve permanency. The testimony reflects these Minor Children will suffer no irreparable harm with Mother’s parental rights being involuntarily terminated. This IVT Court has also considered the importance of the continuity of Minor Children’s relationship with the paternal uncle and his wife who are meeting the developmental, physical and emotional needs of these Minor Children in their best interests. For all of the above reasons, ECCYS has met its burden of proof by clear and convincing evidence under 23 Pa.C.S. §2511(b).

Therefore, ECCYS has established, pursuant to 23 Pa.C.S. § 2511 (a) (1), (2), (5), (8), and (b), by clear and convincing evidence, all four separate grounds for the termination of Mother’s parental rights as to both Minor Children,² even though only one ground is sufficient, and that termination of Mother’s parental rights is indeed in the best interests, needs, and welfare of each Minor Child, specifically Minor child M.H.R. and Minor Child P.A.R. under 23 Pa.C.S. § 2511(b). As a parent, Mother is required to make diligent efforts toward the reasonably prompt assumption of her full parental responsibilities. Mother’s statements that she has a place to take her Minor Children to, after her long period of uncooperativeness regarding the necessity or availability of services, is rejected as untimely and disingenuous. Mother’s parental obligation is a positive duty that required her affirmative performance.

² “Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions.” *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

Mother was required to make diligent efforts toward the reasonably prompt assumption of her full parental responsibilities. She was required to have a continuing interest in each of her Minor Children and make genuine efforts in good faith to maintain communication and association with each Minor Child. Mother failed to do so with either Minor Child.

This IVT Court, therefore, requests the Honorable Judges of the Pennsylvania Superior Court affirm the Decrees for each of the Minor Children, specifically Minor Child M.H.R. and Minor Child P.A.R., entered involuntarily terminating Mother’s parental rights.

BY THE COURT

/s/ **Hon. Stephanie Domitrovich, Judge**

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NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P. 65.37

**IN THE MATTER OF THE ADOPTION OF P.A.R.
APPEAL OF: H.J.S., MOTHER**

Appeal from the Decree Entered July 15, 2021
In the Court of Common Pleas of Erie County Orphans' Court at No(s):
20A In Adoption 2021

IN THE SUPERIOR COURT OF PENNSYLVANIA
No. 950 WDA 2021

**IN THE MATTER OF THE ADOPTION OF M.H.R.
APPEAL OF: H.J.S., MOTHER**

IN THE SUPERIOR COURT OF PENNSYLVANIA
No. 951 WDA 2021

Appeal from the Decree Entered July 15, 2021
In the Court of Common Pleas of Erie County Orphans' Court at No(s):
20 In Adoption 2021

BEFORE: BENDER, P.J.E., DUBOW, J., and COLINS, J.*

MEMORANDUM BY BENDER, P.J.E.:

FILED: MARCH 7, 2022

H.J.S. ("Mother") appeals from the final decrees entered in these cases on July 15, 2021, which involuntarily terminated her parental rights to her minor children, M.H.R. (born in November of 2018) and P.A.R. (born in October of 2020) ("Child" or "Children").¹ Additionally, Mother's counsel filed a petition to withdraw and a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *Commonwealth v. Santiago*, 978 A.2d 349 (Pa. 2009). After review, we grant counsel's petition to withdraw and affirm the termination decrees.

The permanency goals for each Child were previously changed to adoption. *See In the Interest of M.R. and P.R.*, 308 WDA 2021 and 309 WDA 2021, unpublished memorandum (Pa. Super. filed Sept. 16, 2021) (*M.R. and P.R. I*). We rely in part on this Court's rendition of the facts set forth in the *M.R. and P.R. I* memorandum opinion, which states as follows:

M.R. came into the care of [Erie County Children and Youth Services Agency ("Agency")] by emergency protective order dated December 10, 2019, based on allegations related to parental substance abuse. A shelter care hearing was held on December 12, 2019. Mother did not appear at the hearing; Father appeared and stipulated to [a] continuation of shelter care pending the adjudication hearing.

* Retired Senior Judge assigned to the Superior Court.

¹ These matters were consolidated *sua sponte* by this Court by order dated September 9, 2021. Moreover, we note that the Children's Father is not a party to this appeal.

A dependency petition was filed December 13, 2019....

* * *

An adjudication and disposition hearing was held before the juvenile court hearing officer on December 19, 2019. Both parents were present, though Mother arrived late. Father was represented by counsel. The hearing officer found in favor of adjudication. The hearing officer's recommendation was adopted by court order dated January 8, 2020. By virtue of that order, Mother's dispositional permanency plan required her to:

1. refrain from the use of drugs and alcohol and participate in random urinalysis testing at the Esper Treatment Center as requested by the [A]gency. If a positive urine screen is received, [Mother] will be referred to the random urinalysis color code program through Esper Treatment Center;
2. participate in a drug and alcohol assessment and follow through with any recommendations;
3. participate in a mental health evaluation and follow through with any recommendations;
4. obtain and/or maintain safe and stable housing and provide the [A]gency with a signed lease to show that she is able to provide stability for [M.R.];
5. obtain and/or maintain gainful employment and provide the Agency with documentation that she is employed and receives an income;
6. participate in a parenting education program and demonstrate the ability to provide for [M.R.'s] needs during visitation;
7. demonstrate the ability to provide for the safety and well-being of the [C]hild[,] to include attending medical, dental, and other needed appointments; and
8. sign any and all releases requested by the Agency.

Mother's treatment plan was revised a few weeks later to require participation in family dependency drug treatment court.

For the first two review periods (January-May 2020), Mother demonstrated moderate compliance with her permanency plan, except she continued to test positive for marijuana, and on one occasion in January 2020, [she] tested positive for amphetamine/methamphetamine. She underwent the requisite drug and alcohol and mental health assessments and was admitted to family dependency drug court. Her permanency plans were updated accordingly.

Drug testing was unavailable during the second review period due to [the] Covid-19-related shutdown of the Esper Medical Center testing facility. When Mother was tested on two occasions in May and June of 2020, she tested positive for marijuana.

Urinalysis drug testing resumed during the third review period (July-October 2020), but Mother failed to attend screenings after mid-September 2020. When she last appeared

for testing, she tested positive for amphetamines, methamphetamines, and marijuana on September 8, 2020, positive-failure to produce on September 9, 2020, and negative on September 10, 2020. She has not submitted to testing since September 10, 2020. Visitation with M.H.R. was contingent on clean urines [and], therefore, Mother had no visits with M.H.R. during the third and fourth review periods.

Mother was discharged from family dependency treatment court by order ... dated October 1, 2020, for “consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations.” Criminal docket searches during the third and fourth review periods revealed that Mother was charged with possession of drug paraphernalia in August of 2020 and pled guilty to the charge in December of 2020.

Mother gave birth to P.A.R. [in] October [of] 2020. The child was taken into protective custody from the hospital based on Mother’s ongoing substance abuse and the [C]hild’s purportedly having tested positive for amphetamines and opiates at birth.

After the third permanency review hearing on November 2, 2020, the court found there had been no compliance with the permanency plan, and no progress toward alleviating the circumstances that led to [the] original placement, and [it] granted OCY’s motion to change the permanency goal for M.H.R. from reunification to reunification concurrent with adoption. An adjudication and dispositional hearing for P.A.R. was also held on November 2, 2020. P.A.R. was placed in the same kinship home as M.H.R. and assigned the same concurrent permanency goals.

OCY moved to change the permanency goal to adoption after the fourth permanency review period, in January of 2021, alleging parents’ noncompliance with their permanency plans. The motion was heard at the time of the fourth permanency review hearing on February 1, 2021. Both parents appeared at the hearing by telephone and were represented by counsel.

Id. at 1-3 (quoting the trial court opinion, April 1, 2021, at 1-5).

On March 11, 2021, the Agency filed petitions to terminate Mother’s parental rights to both Children. The termination hearing was held on July 13, 2021, and was attended by Mother via telephone due to vehicle problems. The trial court’s opinion sets forth an extensive discussion of the testimony provided by the Agency’s witnesses, as well as a lengthy recitation of Mother’s testimony. *See* Trial Court Opinion (TCO), 9/10/2021, at 20-33. The court then discussed the grounds for termination, concluding that the facts presented by the Agency supported the termination of Mother’s parental rights to the Children pursuant to 23 Pa.C.S. § 2511(a)(1), (2), (5), (8) and (b). On July 15, 2021, the trial court entered the decrees, terminating Mother’s parental rights to both Children.

Mother’s counsel filed a timely appeal on her behalf, but also submitted a “Statement of Intention to File an *Anders* Brief” in lieu of a concise statement of errors complained of on appeal. This is an acceptable procedure. *See In re J.T.*, 983 A.2d 771 (Pa. Super. 2009). Specifically, the *J.T.* opinion explains:

Recently adopted Rule 1925(c)(4) creates an exception to the general rule of waiver in criminal cases when counsel files a brief pursuant to *Anders*. In such an instance[,] a concise statement of errors complained of is not required. Rather, counsel “may file of record and serve on the judge a statement of intent to file” an *Anders* brief “in lieu of filing a Statement.” If upon review of the advocate’s brief required by *Anders*, the appellate court believes that there are arguably meritorious issues for review, those issues are not waived. Instead[,] the appellate court may remand for filing a concise statement of errors complained of, an opinion pursuant to Rule 1925(a), or both.

Because the *Anders* procedure has been engrafted onto parental termination cases by *In Re: V.E. and J.E.*, ... 611 A.2d 1267, 1275 (Pa. Super. 1992), counsel’s decision to follow the Rule 1925(c)(4) procedure in this parental termination case was proper. In so holding, we ensure symmetry of *Anders* procedure in both the criminal and parental termination contexts.

Id. at 773-74. Based upon this explanation in *J.T.*, we conclude that Mother’s counsel followed the proper procedure.

Additionally, we recognize that before reaching the merits of Mother’s appeal, we must address counsel’s request to withdraw. *See Commonwealth v. Rojas*, 874 A.2d 638, 639 (Pa. Super. 2005) (“When faced with a purported *Anders* brief, this Court may not review the merits of the underlying issues without first passing on the request to withdraw.”) (quoting *Commonwealth v. Smith*, 700 A.2d 1301, 1303 (Pa. Super. 1997)). “*In In re V.E.*, ... this Court extended the *Anders* principles to appeals involving the termination of parental rights.” *In re X.J.*, 105 A.3d 1, 3 (Pa. Super. 2014). To withdraw pursuant to *Anders*, counsel must:

- 1) petition the court for leave to withdraw stating that, after making a conscientious examination of the record, counsel has determined that the appeal would be frivolous;
- 2) furnish a copy of the [*Anders*] brief to the [appellant]; and
- 3) advise the [appellant] that he or she has the right to retain private counsel or raise additional arguments that the [appellant] deems worthy of the court’s attention.

Commonwealth v. Cartrette, 83 A.3d 1030, 1032 (Pa. Super. 2013) (*en banc*) (citing *Commonwealth v. Lilley*, 978 A.2d 995, 997 (Pa. Super. 2009)). With respect to the third requirement of *Anders*, that counsel inform the appellant of his or her rights in light of counsel’s withdrawal, this Court has held that counsel must “attach to their petition to withdraw a copy of the letter sent to their client advising him or her of their rights.” *Commonwealth v. Millisock*, 873 A.2d 748, 752 (Pa. Super. 2005).

Additionally, an *Anders* brief must comply with the following requirements:

- (1) provide a summary of the procedural history and facts, with citations to the record;
- (2) refer to anything in the record that counsel believes arguably supports the appeal;
- (3) set forth counsel’s conclusion that the appeal is frivolous; and
- (4) state counsel’s reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

Santiago, 978 A.2d at 361.

In the instant matter, counsel has filed a petition to withdraw, certifying that she has reviewed the case and determined that Mother’s appeal is wholly frivolous. Counsel also has filed a brief that includes a summary of the history and facts of the case, issues raised by Mother, and counsel’s assessment of why those issues are frivolous, with citations to relevant legal authority. Counsel has included a copy of her letter to Mother, advising Mother that she may obtain new counsel or raise additional issues *pro se*. Accordingly, counsel has substantially complied with the requirements of *Anders* and *Santiago*. See *Commonwealth v. Reid*, 117 A.3d 777, 781 (Pa. Super. 2015) (observing that substantial compliance with the *Anders* requirements is sufficient). We, therefore, may proceed to review the issues outlined in the *Anders* brief. In addition, we must “conduct an independent review of the record to discern if there are any additional, non-frivolous issues overlooked by counsel.” *Commonwealth v. Flowers*, 113 A.3d 1246, 1250 (Pa. Super. 2015) (footnote omitted).

Counsel’s *Anders* brief lists the following in the section entitled statement of the questions presented:

- A. Whether the orphans’ court committed an error of law and/or abused its discretion when it concluded that termination of parental rights was supported by clear and convincing evidence pursuant to 23 Pa.C.S. §§[2511(a)(1), (2), (5), [and] (8)]?
- B. Whether the orphans’ court committed an error of law and/or abused its discretion when it concluded that termination of parental rights was supported by clear and convincing evidence pursuant to 23 Pa.C.S. §§[2511(b)]?

Anders brief at 3.

We consider these issues mindful of our well-settled standard of review:

The standard of review in termination of parental rights cases requires appellate courts to accept the findings of fact and credibility determinations of the trial court if they are supported by the record. If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. A decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. The trial court’s decision, however, should not be reversed merely because the record would support a different result. We have previously emphasized our deference to trial courts that often have first-hand observations of the parties spanning multiple hearings.

In re T.S.M., 71 A.3d 251, 267 (Pa. 2013) (citations and quotation marks omitted).

Termination of parental rights is governed by Section 2511 of the Adoption Act, 23 Pa.C.S. §§ 2101-2938, which requires a bifurcated analysis.

Initially, the focus is on the conduct of the parent. The party seeking termination must prove by clear and convincing evidence that the parent’s conduct satisfies the statutory grounds for termination delineated in Section 2511(a). Only if the court determines that the parent’s conduct warrants termination of his or her parental rights does the court engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child.

One major aspect of the needs and welfare analysis concerns the nature and status of the emotional bond between parent and child, with close attention paid to the effect on the child of permanently severing any such bond.

In re L.M., 923 A.2d 505, 511 (Pa. Super. 2007) (citations omitted).

In this case as noted above, the trial court terminated Mother’s parental rights pursuant to Sections 2511(a)(1), (2), (5), (8), and (b). We need only agree with the trial court as to any one subsection of Section 2511(a), as well as Section 2511(b), in order to affirm. *In re B.L.W.*, 843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*). Here, we analyze the court’s decision to terminate under Sections 2511(a)(2) and (b), which provide as follows:

(a) General rule. — The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

- (2) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

(b) Other considerations. — The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

23 Pa.C.S. § 2511(a)(2), (b).

We first address whether the trial court abused its discretion by terminating Mother’s parental rights pursuant to Section 2511(a)(2).

In order to terminate parental rights pursuant to 23 Pa.C.S.[] § 2511(a)(2), the following three elements must be met: (1) repeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.

In re Adoption of M.E.P., 825 A.2d 1266, 1272 (Pa. Super. 2003) (citation omitted)). “The grounds for termination due to parental incapacity that cannot be remedied are not limited to affirmative misconduct. To the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties.” *In re A.L.D.*, 797 A.2d 326, 337 (Pa. Super. 2002) (citations omitted).

Here, with regard to Section (a)(2), the trial court found:

As to 23 Pa.C.S. § 2511(a)(2) in the instant case, on February 1, 2021, Minor Child M.H.R.'s Fourth Permanency Review Hearing was held as well as Minor Child P.A.R.'s first Permanency Hearing.

Mother had "no compliance with the permanency plan" and "no progress toward alleviating the circumstances which necessitated the original placement."

Mother had "a need for [help with] housing, drug and alcohol and also mental health and parenting." Ms. DiCola confirmed [that,] when she ended her services, Mother was "still working on the same issues." Ms. DiCola clarified even though during the thirteen months Ms. DiCola provided services for Mother, Mother was[n't] really making any progress. Mother was not doing enough.

Mother failed to pay her rent and owed landlord \$4,553.00. Mother and/or Father received \$10,000 from pandemic unemployment but did follow through with Section 8 housing at that time.

Mother was to participate in 36 urines but had: 26 no shows; 4 negatives; 3 failure to produce; ... 1 positive for marijuana and 1 for methamphetamine, and 1 for amphetamines, meth, and marijuana. Mother "was pretty argumentative" with providers and "wouldn't take responsibility for any of her actions." Mother blamed [the Agency] and other service providers or would make excuses as to why she wasn't doing what she needed to do on the court order.

Caseworker Rash confirmed services were offered to Mother after April 20, 2020, through Zoom and by telephone. For the following review period in July of 2020, and as the Covid restrictions began to change, Caseworker Rash had not seen any change in how Mother was interacting. On May 29, ... 2020[,] and June 11[,] ... 2020, Mother tested positive for marijuana. Between April to July 1, 2020, Mother continued visitation with Minor Child M.H.R. through Zoom video chat lasting for fifteen minutes. Caseworker Rash confirmed discussing with Mother ... [her] being pregnant and still using drugs, but Mother continued to use. The newly born Minor Child P.A.R. was found to be drug exposed for [m]ethamphetamine. Since Minor Child P.A.R. was discharged from the hospital, Caseworker Rash confirmed Mother did not have any visits with Minor Child P.A.R.

Caseworker Rash confirmed between July of 2020 and November of 2020, Mother went from having "moderate compliance" to "no compliance." In particular, between July 1st of 2020 and October 13th of 2020, Mother was to participate in thirty-six (36) urine screens. Mother had twenty-six (26) no shows; four (4) negatives; three (3) failure to produce; one (1) positive for marijuana and one (1) [positive] for methamphetamine, and one (1) [positive] for amphetamines, meth[,] and marijuana. On October 1, 2020, Mother was discharged from treatment court due to her consistent failure to attend court, her failure to submit to drug testing, and her non-compliance with treatment recommendations. When providers started seeing Mother face-to-face, Mother "was

pretty argumentative" and "wouldn't take responsibility for any of her actions." Mother would blame [the Agency] and/or other service providers for her own shortcomings or Mother would make excuses as to why she was not doing what she needed to do in the Court Order. Caseworker Rash also reported about an "unpleasant interaction" with Mother during a team meeting at Mother's residence in Girard. Mother communicated to Caseworker Rash "she was going to go to the State of Ohio to have her baby so Erie County wouldn't be involved with that child as well."

Caseworker Rash confirmed she also had conversations explaining to Mother as to "how difficult that would make things to move to Ohio." Also Ms. DiCola and Ms. DuShole, as well as the [d]ependency judge at the November 2nd hearing, made it very clear to Mother that if she decided to live in the State of Ohio, it was Mother's responsibility from that point on to seek out her own services that she needed. Mother was cautioned that she would still be responsible to do her urine screens at the Esper Treatment Center.

On October 1, 2020, the Erie County Family Dependency Treatment Court discharged Mother "for consistent failure to attend court, failure to submit to drug testing and non-compliance with treatment recommendations."

In November, when Adoption was established as the concurrent goal with reunification, Mother reported to Caseworker Rash that she was staying in a tent and then in a camper and their vehicle. Mother also said she was staying with other family members in Ohio and at the Geneva Motel in Ohio. As to transportation assistance when Mother was living in Girard, Mother was offered gas cards[,] which Mother accepted, but Caseworker Rash confirmed Mother's ability to transport herself did not improve.

Mother dropped out of services January of 2021, and Mother was still claiming to be a resident in Ohio at that time. As to visitation with either of her children, May of 2020 was the actual last[,] in[-]person visit. When asked how Minor Child M.H.R. is doing since he has been in care, Caseworker Rash stated Minor Child M.H.R. "has been doing great." He is "meeting all his milestones." The pre-adoptive home of paternal uncle was "meeting all of his needs." A "very strong, healthy bond" exists between Minor Child M.H.R. ... in his pre-adoptive home with his paternal uncle and his wife. [Caseworker] Rash stated Minor Child M.H.R. has experienced no negative or detrimental effect after not seeing his Mother since the May 2020 in-person visit or virtually since June of 2020. He has had no negative effects by not seeing his Mother for over a year, and he will be three in November. And Minor Child P.A.R. "hasn't seen her parents since she was born" and her paternal uncle and his wife in her pre-adoptive home "are the only parents that she's known." Mother has done nothing to remedy the conditions that led to the placement of her children. Caseworker Rash confirmed it would be in both of these Minor Children's best interest if the Mother's parental rights were involuntarily terminated since "the [M]other has not made any progress on her court[-]ordered treatment plan." Minor Child M.H.R. has been in care with his paternal uncle and his wife "for 19 months[,] which is over half of his life...." Minor child P.A.R. "has been in

care for her entire life, which is approximately nine months.” In fact, neither Minor Child M.H.R. nor Minor Child P.A.R. ... even recognize Mother as their mother. Caseworker Rash stated “it would be more detrimental to not terminate [Mother’s] parental rights.”

During the instant IVT [(involuntary termination)] trial, Mother confirmed she understands [the Agency] is petitioning the [c]ourt to terminate her rights which would mean the law would no longer identify her as the Mother to either Minor Child M.H.R. and Minor Child P.A.R. However, Mother claimed she is able to take care of Minor Child M.H.R. or Minor Child P.A.R. “because [she] has a place to take them to” and “[she] loves [her] children and [she] was a good mom; [she] does not think what happened was fair.” Mother is living in a house where she only has a room, but also has a camper. Her friend, Tiffany, is the owner of this house, and lives there too, with her husband. Mother does not necessarily pay rent, but if Mother has money and her friend needs it, Mother will “help her.” Mother admitted using marijuana when asked about her positive test results, but failed to blame herself for not seeing her son. Mother testified she is bipolar and has PTSD, depression, ADD[,] and ADHD.

Minor Child M.H.R. and Minor Child P.A.R. “are doing very well in their current placement” and the paternal uncle and his wife as Kinship Care is an adoptive resource for them. Caseworker Vicander maintained [that] terminating Mother’s parental rights is in “the best interest of these children” because neither Minor Child M.H.R. nor Minor Child P.A.R. have seen Mother in person since June of 2020. In addition, he stated, “parents weren’t able to rectify the situation that led to their placement.” Caseworker Vicander confirmed there would be “no negative effect” on either Minor Child if Mother’s rights would be terminated.

Therefore, under 23 Pa.C.S. § 2511(a)(2), [the Agency] has proven by clear and convincing evidence that Mother’s incapacity and neglect have caused Minor Child M.H.R. and Minor Child P.A.R. to be without essential parental care and control. Mother cannot and has not remedied the causes of her incapacity and neglect as to each of these Minor Children, specifically Minor Child M.H.R. and Minor Child P.A.R. Mother has demonstrated a continued inability to conduct her life in a fashion that would provide a safe environment for either or both of these Minor Children, whether that child was living with that parent or not, and her behavior is irremediable as supported by clear and competent evidence thereby justifying granting [the Agency] both Petitions to terminate Mother’s parental rights in the instant case.

TCO at 46-50 (citations to the record omitted).

After a thorough review of the record in this matter, we conclude that the trial court did not abuse its discretion by terminating Mother’s parental rights pursuant to Section 2511(a). The court’s findings, stated above, are based upon the testimony provided at the termination hearing and support the court’s finding that Mother is incapable of providing Children with the essential parental care, control, and subsistence necessary for their mental and physical well-being, and that Mother is unable to remedy the causes of her parental incapacity. At the

time the court entered its termination decrees, M.H.R. had been in foster care for 19 months and P.A.R. had been in care since birth, and Mother had failed to successfully accomplish any of her goals. It is clear that Mother simply will not, and apparently cannot, become a capable parent for Children at any point in the foreseeable future. Thus, Mother is not entitled to relief as to Section 2511(a)(2).

We next consider whether the trial court abused its discretion by terminating Mother’s parental rights pursuant to Section 2511(b). We analyze Section 2511(b) as follows:

Subsection 2511(b) focuses on whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the child. In *In re C.M.S.*, 884 A.2d 1284, 1287 (Pa. Super. 2005), this Court stated, “Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child.” In addition, we instructed that the trial court must also discern the nature and status of the parent-child bond, with utmost attention to the effect on the child of permanently severing that bond. However, in cases where there is no evidence of a bond between a parent and child, it is reasonable to infer that no bond exists. Accordingly, the extent of the bond-effect analysis necessarily depends on the circumstances of the particular case.

In re Adoption of J.M., 991 A.2d 321, 324 (Pa. Super. 2010) (citations omitted).

Notably, in regard to Section 2511(b), the trial court stated in its opinion that:

Mother “dropped out of services January of 2021” and the parents were “still claiming to be residing in Ohio at that time.” As to visitation with either of their [C]hildren, May of 2020 was the actual last in-person visit. When asked how Minor Child M.H.R. is doing since he has been in care, Caseworker Rash answered he “has been doing great.” The Kinship paternal uncle and his wife “are meeting all of his needs” and there is a “healthy bond between them.” Caseworker Rash responded Minor Child M.H.R. has not ... suffered a “detrimental effect by not seeing his parents since the May 2020 in-person visit or the virtual visit in June of 2020. Minor Child P.A.R. “hasn’t seen her parents since she was born” and her Kinship paternal uncle and his wife are the only parents she has known. Caseworker Rash confirmed “it would be in these [C]hildren’s best interest if the [M]other’s parental rights were to be involuntarily terminated” since “[M]other has not made any progress on her court[-]ordered treatment plan.” Neither Minor Child M.H.R. nor Minor Child P.A.R. “...even recognize [Mother] as their mother.” Caseworker Rash stated [that] “it would be more detrimental to not terminate Mother’s parental rights.” Indeed, the parent-child bond with each Minor Child is a “healthy one” with the paternal uncle and his wife, not with the Mother.

Caseworker Vicander credibly stated Minor Child M.H.R. and Minor Child P.A.R. “are doing very well in their current placement” and confirmed “this would be an adoptive resource.” Caseworker Vicander maintained that termination of parental rights is in “the best interest of these [C]hildren” because Minor Child M.H.R. and Minor Child P.A.R. have not seen their Mother “in person since June 2020.” In addition, “[P]arents weren’t

able to rectify the situation that led to their placement.” As confirmed by Caseworker Vicander, there would be “no negative effect” on either Minor Child if Mother’s rights were terminated.

* * *

This IVT [c]ourt finds and concludes that indeed nothing has changed with Mother. Minor [C]hild[ren] M.H.R. and P.A.R. need to move onto permanency, and in fact, these Minor Children deserve permanency. The testimony reflects these Minor Children will suffer no irreparable harm with Mother’s parental rights being involuntarily terminated. This IVT [c]ourt has also considered the importance of the continuity of Minor Children’s relationship with the paternal uncle and his wife who are meeting the developmental, physical[,] and emotional needs of these Minor Children in their best interests. For all of the above reasons, [the Agency] has met its burden of proof by clear and convincing evidence under 23 Pa.C.S. §2511(b).

TCO at 55-56, 57-58 (citations to the record omitted).

Again, our review of the record reveals that it supports the trial court’s conclusion that terminating Mother’s parental rights would best serve Children’s needs and welfare. Children have spent nearly their entire lives with their paternal uncle and his wife and, thus, it is clear that Children should not be removed from their care. Children will not suffer irreparable harm if Mother’s parental rights are terminated.

Accordingly, our independent review of Mother’s claims demonstrates that they do not entitle her to relief. Moreover, our review of the record does not reveal any non-frivolous issues overlooked by counsel. *See Flowers*, 113 A.3d at 1250. Therefore, we grant counsel’s petition to withdraw, and affirm the trial court’s decrees.

Decrees affirmed. Petition to withdraw granted.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 3/7/2022

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10489-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Santina Nicole Bonaminio to Santina Nicole Galvin and Tyler Christopher VanHooser to Tyler Christopher Galvin.

The Court has fixed the 19th day of April, 2022 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.

Mar. 25

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10387-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Paige Ellen Boucher to Vivienne Payge Boucher.

The Court has fixed the 12th day of April, 2022 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.

Mar. 25

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10577-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Caden Matthew Cammarata to Raven Jane Cammarata.

The Court has fixed the 11th day of April, 2022 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.

Mar. 25

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10462-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of David Lawrence Phelps to Jennifer Seliine Stacy.

The Court has fixed the 13th day of

April, 2022 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.

Mar. 25

LEGAL NOTICE

Attorney John Mario Bonanti passed away on January 16, 2021. At the time of his passing, Atty. Bonanti held in his possession files of clients. Any client wishing to retrieve their file (or who believes that they are owed money by Atty. Bonanti) should immediately contact the following:

Margaret Blumish, Executor
c/o Jerome C. Wegley, Esq.
120 West Tenth Street,
Erie, PA 16501

Any files not retrieved within ninety (90) days of the publication of this notice will be destroyed.

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

Mar. 11, 18, 25

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AUDIT LIST NOTICE BY AUBREA HAGERTY-HAYNES

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, March 9, 2022** and confirmed Nisi.

April 20, 2022 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>2022</u>	<u>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
71	Pamela J. Lamary a/k/a Pamela Joan Lamary a/k/a Pamela Lamary	Tammy M. Lamary-Toman <i>Executrix</i>	Michael A. Fetzner, Esq.
72	James S. Michael.....	PNC Bank, National Association <i>Trustee</i>	Brian Cagle, Esq.
73	Patrick M. McCafferty.....	Michael J. McCafferty..... <i>Administrator</i>	Craig A. Zonna, Esq.

AUBREA HAGERTY-HAYNES
Clerk of Records
Register of Wills &
Orphans' Court Division

Mar. 18, 25



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

Confidential inquiries by phone or email to mrsinfo@mrs-co.com.

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

**AKUS, LEON J.,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania
Executrix: Teresa Yeager, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**BARGIELSKI, LAWRENCE S.,
a/k/a LAWRENCE BARGIELSKI,
a/k/a LAWRENCE STANLEY
BARGIELSKI, a/k/a
LAWRENCE STANISLAUS
BARGIELSKI,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executrix: Denise M. Shaw, 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

**CASELLA, JAMES A., a/k/a
JOHN ALAN CASELLA,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Patricia L. Casella, 1735 Emery Drive, Erie, PA 16509-1149
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**CRAWFORD, FLORINE,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Roger D. Giles, 1719 Westwood Drive, Erie, PA 16505
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**GREGORY, DANIEL J., a/k/a
DANIEL GREGORY,
deceased**

Late of Venango Township, County of Erie and Commonwealth of Pennsylvania
Administrator: Alexander J. Gregory, c/o Eugene C. Sundberg, Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Eugene C. Sundberg, Jr., Esq., MARSH SCHAAF, LLP., Suite 300, 300 State Street, Erie, PA 16507

**HILTABIDEL, JAMES ARTHUR,
a/k/a JAMES A. HILTABIDEL,
deceased**

Late of the Township of LeBoeuf, County of Erie, Commonwealth of Pennsylvania
Administrator: Lucas J. Hiltabidel, 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

**MEYER, CLARA D., a/k/a
CLARA DIANNA MEYER,
deceased**

Late of the Township of McKean, County of Erie and Commonwealth of Pennsylvania
Co-executors: John Michael Meyer and Lisa Peretto, 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

**PEMBERTON, WAYNE EARL,
a/k/a WAYNE E. PEMBERTON,
a/k/a WAYNE PEMBERTON,
a/k/a WAYNE E. PEMBERTON,
SR.,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Charles H. Pemberton, c/o 337 West 10th Street, Erie, PA 16502
Attorneys: THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

**PISANO, VICTOR A.,
deceased**

Late of Greene Township, Erie County
Administrator c.t.a.: Michael A. Pisano
Attorney: Norman A. Stark, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**PISKORSKI, THOMAS E., JR.,
deceased**

Late of Erie, Erie County, Pennsylvania
Administrator: Thomas E. Piskorski, Sr., c/o Peter J. Sala, Esquire, 731 French Street, Erie, PA 16501
Attorney: Peter J. Sala, Esquire, 731 French Street, Erie, PA 16501

**SABATINE, KAREN D., a/k/a
KAREN SABATINE, a/k/a
KAREN D. ERDELY,
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Administrator: Douglas B. Erdely, 3528 Greengarden Boulevard, Erie, PA 16508
Attorney: John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**SULLIVAN, HELEN, a/k/a
HELEN F. SULLIVAN,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Timothy P. Sullivan, c/o James J. Bruno, 3820 Liberty Street, Erie, PA 16509
Attorney: James J. Bruno, 3820 Liberty Street, Erie, PA 16509

**SWAN, JESSICA M.,
deceased**

Late of Summit Township, Erie County, Pennsylvania
Executor: Julie M. Hutton, c/o 343 E. Fairmount Ave., Lakewood, NY 14750
Attorney: Lori L. Thierfeldt, Esq., 343 E. Fairmount Ave., Lakewood, NY 14750

**VAN HORN, RAYMONDE., a/k/a
RAYMOND VanHORN,
deceased**

Late of the Borough of Wesleyville, County of Erie, Commonwealth of Pennsylvania
Executor: Mark A. Van Horn, 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

**WAGNER, SHIRLEY E., a/k/a
SHIRLEY ELEANOR WAGNER,
deceased**

Late of the Township of Millcreek, County of Erie and State of Pennsylvania
Executrix: Cheryl L. Veith, 5621 Franklin Road, Fairview, Pennsylvania 16415
Attorney: None

**WICK, JAMES RAYMOND, a/k/a
JAMES R. WICK, a/k/a
JAMES WICK,
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Administratrix: Sarah Wick, c/o Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428
Attorney: Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428

**WILSON, BETTY JEAN, a/k/a
BETTY J. WILSON,
deceased**

Late of the Boro of Wesleyville, County of Erie, Commonwealth of Pennsylvania
Executor: Duke B. Wilson, c/o Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428
Attorney: Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428

SECOND PUBLICATION

**ADAMS, NANCY JEAN,
deceased**

Late of Girard Township, Erie County, Pennsylvania
Executor: Donald E. Eagley, c/o 502 Parade Street, Erie, PA 16507
Attorney: Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

**ADAMS, ROBERT, a/k/a
ROBERT LEROY ADAMS,
deceased**

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

**ALLMAN, JAMES A., a/k/a
JAMES ALLMAN, a/k/a
JIM ALLMAN,
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania
Executrix: Patricia A. Stucke, 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

**BEDDICK, MAY LOUISE, a/k/a
MAY L. BEDDICK,
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania
Administrator: Steven G. Beddick, 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

**BOLLA, CHRISTOPHER MARK,
a/k/a CHRISTOPHER M. BOLLA,
deceased**

Late of the Township of Washington, Commonwealth of Pennsylvania
Executrix: Jessica A. Vendetti, c/o Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509
Attorney: Richard A. Vendetti, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, PA 16509

BORKOWSKI, JACQUELYNN, a/k/a JACQUELYNN ALFIERI BORKOWSKI, deceased

Late of the City of Erie, Erie County
Executor: Daniel Manning
Attorney: Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

BRACE, EARL LESLIE, a/k/a E. LESLIE BRACE, a/k/a EARL L. BRACE, deceased

Late of Waterford Township, County of Erie and Commonwealth of Pennsylvania
Co-executors: Debra A. Brace and Douglas E. Brace, c/o Hopkins Law, 333 State Street, Suite 203, Erie, PA 16507
Attorney: Damon C. Hopkins, Esquire, 333 State Street, Suite 203, Erie, PA 16507

BRUNO, LEO W., deceased

Late of the City of Erie, Erie County, PA
Executrix: Shirley J. Bruno
Attorney: Steven L. Sablowsky, Esquire, Goldblum Sablowsky, LLC, 285 E. Waterfront Drive, Suite 160, Homestead, PA 15120

CERVIK, MARILYN R., deceased

Late of the City of Erie, County of Erie
Administrator: Mark D. Cervik, Sr., 966 E. 31st Street, Erie, PA 16504
Attorney: Michael S. Butler, Esq., Heritage Elder Law, 318 South Main Street, Butler, PA 16001

CRISCIONE, CHARLES M., a/k/a CHARLES CRISCIONE, deceased

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania
Executor: Matthew C. Criscione, 1116 Mechanic Street, Girard, PA 16417
Attorney: John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

DAVIS, FLORENCE R., deceased

Late of the City of Erie, Erie County, Erie, PA
Executor: Ronald S. Davis, c/o 33 East Main Street, North East, Pennsylvania 16428
Attorney: Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

DIERS, EMIL JOHN, JR., deceased

Late of Greene Township, County of Erie, Commonwealth of Pennsylvania
Administratrix: Tiffany Ziemba, c/o Steven Smka, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428
Attorney: Steven Smka, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428

FOLTZ, KATRINA M., deceased

Late of the City of Erie, County of Erie, Pennsylvania
Personal Representative: Mark J. Miner, c/o 3939 West Ridge Road, Suite B-27, Erie, PA 16506
Attorney: James L. Moran, Esquire, 3939 West Ridge Road, Suite B-27, Erie, PA 16506

FRYCZYNSKI, JUDITH ANN, a/k/a JUDITH A. FRYCZYNSKI, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Nathaniel Balut
Attorney: David J. Rhodes, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

GEER, LARRY D., deceased

Late of the Township of Union, County of Erie, Pennsylvania
Co-executors: Christy L. Esh and Nathan C. Geer, c/o Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407
Attorney: Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407

GEORGE, ROBERT A., a/k/a ROBERT ANTHONY GEORGE, deceased

Late of the Borough of Lake City, County of Erie and Commonwealth of Pennsylvania
Executrix: Lyne M. Daniels
Attorney: David J. Rhodes, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

GNACINSKI, MATTHEW JOHN, deceased

Late of the City of Erie, County of Erie, Pennsylvania
Personal Representative: Shannon Gnacinski, c/o 3939 West Ridge Road, Suite B-27, Erie, PA 16506
Attorney: James L. Moran, Esquire, 3939 West Ridge Road, Suite B-27, Erie, PA 16506

LAUGHLIN, JAMES L., deceased

Late of Millcreek Township, Erie County, Pennsylvania
Executor: Patrick Laughlin, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

MEEDER, JAMES C., deceased

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania
Co-executors: Jeffrey F. Meeder and Sherri G. Meeder, 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

MILLER, BARBARA E., a/k/a BARBARA MILLER, deceased

Late of the Borough of Girard, County of Erie, Commonwealth of Pennsylvania
Executor: Patrick C. Miller, 475 Hillcrest Drive, Girard, PA 16417
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

MONTIE, JANICE K., a/k/a JANICE KAY MONTIE, a/k/a JANICE MONTIE, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Kevin Montie, 3604 McKee Road, Erie, PA 16506
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

MOOSA, INGEBORG ASTRID, deceased

Late of Franklin Township, Erie County, Pennsylvania
Executrix: Petra M. Beck
Attorney: Joseph F. Weis, Esquire, Cafardi Ferguson Wyrick Weis & Gabriel, LLC, 2605 Nicholson Rd., Suite 2201, Sewickley, PA 15143

PETERSON, RONALD F., deceased

Late of the Township of Summit, County of Erie, Commonwealth of Pennsylvania
Executor: Brian R. Peterson, c/o Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506
Attorney: Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506

REGNIER, MARILYN, a/k/a MARILYN A. REGNIER, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Robert L. Markham, 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

SCHUMACHER, CAROLA., deceased

Late of the City of Erie, Erie County, Pennsylvania
Administratrix: Linda J. Schumacher, c/o 502 Parade Street, Erie, PA 16507
Attorney: Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

SKRUTSKY, ANTHONY WILLIAM, deceased

Late of the City of Erie, County of Erie, Commonwealth of PA
Administrator: William P. Skrutsky, c/o 102 East 4th Street, Erie, PA 16507
Attorney: Richard E. Filippi, Esquire, 102 East 4th Street, Erie, PA 16507

SUNDARAM, DR. RAJESWARI, a/k/a RAJESWARI SUNDARAM, deceased

Late of Millcreek Township, Erie County, Pennsylvania
Executor: Ramakrishnan Sundaram, c/o Nadia A. Havard, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Nadia A. Havard, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

WILLIAMS, GLENN H., JR., a/k/a GLENN HAROLD WILLIAMS, JR., a/k/a GLENN H. WILLIAMS, a/k/a GLENN WILLIAMS, deceased

Late of the Township of Harborside, County of Erie, Commonwealth of Pennsylvania
Executrix: Elisabeth B. Williams, 974 Parkside Drive, Harborside, PA 16511
Attorney: John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

THIRD PUBLICATION**BIEBEL, MARLENE R., deceased**

Late of Union City Borough, Erie County, Commonwealth of Pennsylvania
Executor: Richard T. Biebel, Jr., c/o Kenzie P. Ryback, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Kenzie P. Ryback, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

CLEMENT, DAVID L., a/k/a DAVID LEE CLEMENT, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executor: John A. Clement, 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

DONNELLY, RICHARD H., SR., a/k/a RICHARD H. DONNELLY, deceased

Late of North East Borough, County of Erie and Commonwealth of Pennsylvania
Executrix: Brynn A. Barnhart, 5201 Harborside Road, Erie, PA 16510-5262
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459



March 25, 2022

DRURY, KERRIE LEE, deceased

Late of Conneaut Township
Administratrix: Terrie D. Drury, c/o Brenc Law, 9630 Moses Road, Springboro, Pennsylvania 16435
Attorney: Andrew S. Brenc, Esquire, 9630 Moses Road, Springboro, Pennsylvania 16435

FEDEROFF, RONALD NEIL, deceased

Late of Girard Township, Erie County
Executrix: Andrea Federoff
Attorney: Norman A. Stark, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

GRAMLEY, HAROLD D., deceased

Late of Millcreek Township, Erie County, Pennsylvania
Co-executors: Steven K. Gramley and Nathan T. Gramley, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501
Attorney: Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

HAFEL, MARLENE JOAN, a/k/a MARLENE HAFEL, a/k/a MARLENE J. HAFEL, deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania
Executrix: Kelly L. Madden, 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

HINTON, ROY A., a/k/a ROY A. HINTON, SR., deceased

Late of the City of Erie, County of Erie, and State of Pennsylvania
Co-executors: Roy A. Hinton, Jr., and Cory M. Hinton, c/o Justin L. Magill, Esq., 2820 W. 23rd Street, Erie, PA 16506
Attorney: Justin L. Magill, Esquire, 2820 W. 23rd Street, Erie, PA 16506

MacKINLAY, JOHN A., deceased

Late of the Township of Wayne, County of Erie, Commonwealth of Pennsylvania
Administratrix: Mary Jane McCartney, c/o 100 State Street, Suite 700, Erie, PA 16507-1459
Attorneys: MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

OLSON, ALDENE C., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Administrator: Stuart A. Olson, 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

RODRIGUEZ, VALERIE J., a/k/a VALERIE RODRIQUEZ, deceased

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

SEXAUER, GROVER W., a/k/a GROVER WILLIAM SEXAUER, a/k/a GROVER SEXAUER, deceased

Late of the Township of Millcreek, County of Erie and State of Pennsylvania
Executor: Scott Sexauer, 4960 Sir Hue Drive, Erie, PA 16506
Attorney: Ronald J. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

SHREVE, LOIS M., a/k/a LOIS MAXINE TRAPHAGEN SHREVE, a/k/a LOIS MAXINE SHREVE, deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania
Executor: Thomas R. Shreve, 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

VENDETTI, LUCILLE A., a/k/a LUCILLE VENDETTI, deceased

Late of the City of Erie, County of Erie and State of Pennsylvania
Executor: Ronald J. Susmarski, 4036 West Lake Road, Erie, PA 16505
Attorney: Aaron E. Susmarski, Esq., 4030 West Lake Road, Erie, PA 16505

WHELPLEY, SHIRLEY A., a/k/a SHIRLEY ANN WHELPLEY, a/k/a SHIRLEY WHELPLEY, deceased

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania
Executor: John E. Whelpley
Attorney: James H. Richardson, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

Epidemic indemnity - Giant Eagle, a regional supermarket retailer, sued a fleet of insurers Thursday in Pennsylvania Western District Court to recover costs associated with the defense and settlement of lawsuits arising from the opioid epidemic. The lawsuit, which takes aim at affiliates of Chubb, Travelers, Liberty Mutual and American Financial Group, seeks declaratory judgment that the defendants have a duty to defend and indemnify Giant Eagle against claims related to its dispensing of prescription opioids at grocery store pharmacies. The suit, brought by Marcus & Shapira and Miller Friel PLLC, states that Giant Eagle has incurred more than \$30 million to date in attorney fees and costs. The case is 2:22-cv-00468, *Giant Eagle, Inc. et al. v. American Guarantee and Liability Insurance Company et al.*

DOL withdrawal of Trump-era independent contractor final rule unlawful, Court rules - The U.S. Department of Labor (DOL) unlawfully delayed and then withdrew the Independent Contractor (IC) Final Rule, published in the waning days of the Trump Administration, a federal court in Texas has held. *Coalition for Workforce Innovation et al. v. Walsh*, No. 1:21-cv-00130-MAC (E.D. Tex. Mar. 14, 2022). As a result of the court's ruling, the withdrawal of the IC Final Rule is invalid, and the IC Final Rule goes into effect immediately — at least for now. The Final Rule, which never took effect prior to its withdrawal in May 2021 by the current administration, established a uniform standard for determining a worker's status as an "independent contractor" under the Fair Labor Standards Act (FLSA). Read more ... <https://www.natlawreview.com/article/dol-withdrawal-trump-era-independent-contractor-final-rule-unlawful-court-rules>

Chapman University professor files infringement suit to learn which students posted exam questions online - A Chapman University business professor has claimed in a lawsuit that unknown students who posted his midterm and final exam questions on Course Hero, a website in which students share documents from college classes, infringed on his copyright. The professor, David Berkovitz, is also a lawyer, the Washington Post reports. His March 11 lawsuit contends that the students who posted the questions from the spring 2021 exams infringed on his right to "reproduce, make copies, distribute or create derivative works." Read more ... <https://www.abajournal.com/news/article/lawyer-a-chapman-prof-files-infringement-suit-to-learn-which-students-posted-exam-questions-online>

Snapchat may be liable for speed filter used by teen before crash, Georgia Supreme Court says - Snapchat may be liable for negligently designing a speed filter used by a teenage driver who recorded speeds of more than 100 miles per hour before she crashed her Mercedes-Benz and severely injured another driver, the Georgia Supreme Court ruled Tuesday. Snapchat may be liable — even though the teenager intentionally misused the product, even though Snapchat warned against using the speed filter while driving, and even though the teen was not the plaintiff in the lawsuit, the state supreme court said. A manufacturer's duty to design a reasonably safe product extends to people injured by a third party's intentional misuse of a product, the court concluded. Read more ... <https://www.abajournal.com/news/article/snapchat-may-be-liable-for-speed-filter-used-by-teen-before-crash-georgia-supreme-court-says>

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