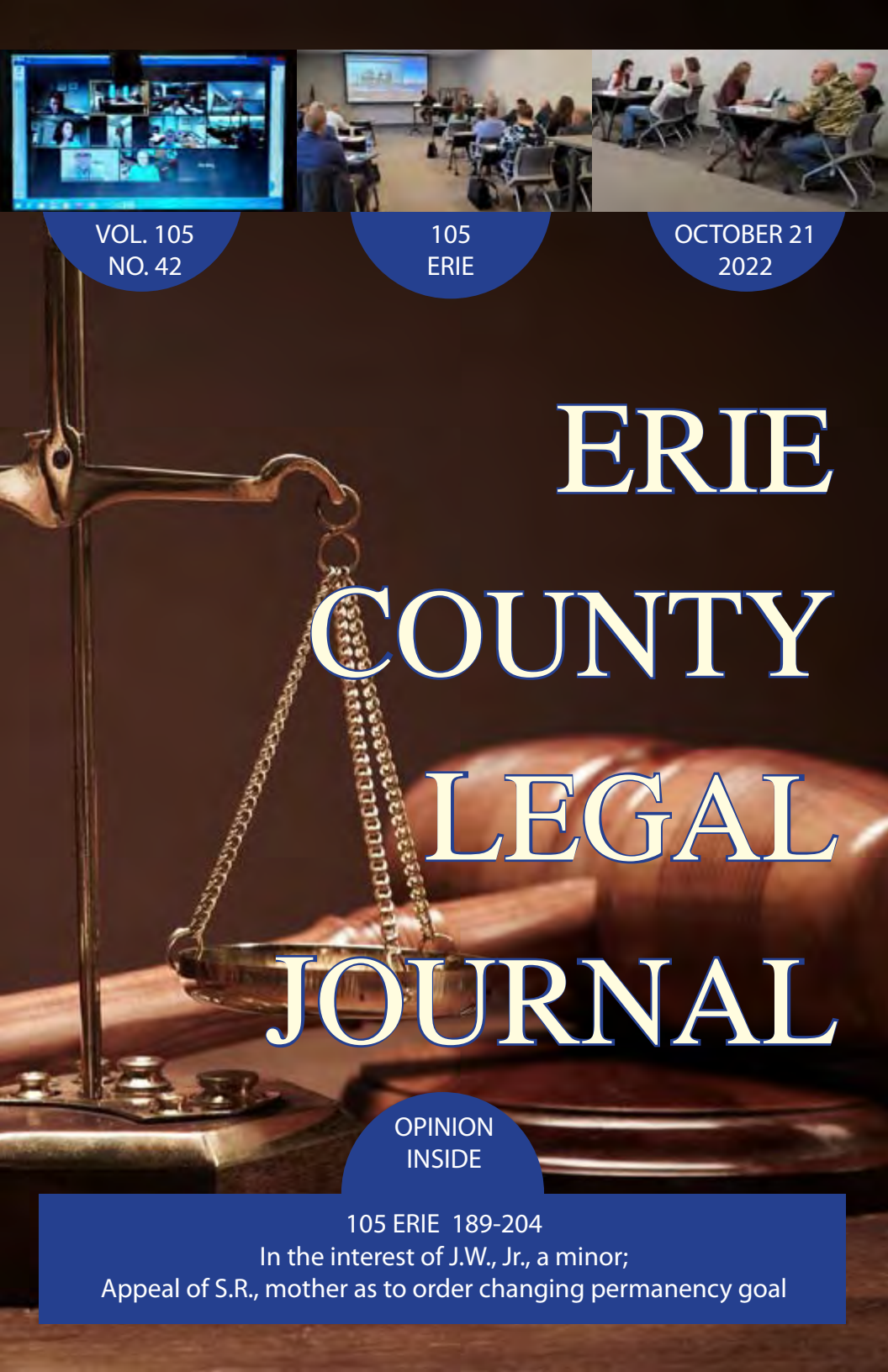




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ERIE COUNTY LEGAL JOURNAL

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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, OCTOBER 24, 2022

ECBA Board of Directors Meeting
Noon
ECBA Headquarters in-person or via Zoom

TUESDAY, OCTOBER 25, 2022

Young Lawyers Division Meeting
Noon
ECBA Headquarters in-person or via Zoom

WEDNESDAY, OCTOBER 26, 2022

Estates & Trusts Section Meeting
Noon
ECBA Headquarters in-person or via Zoom

THURSDAY, OCTOBER 27, 2022

Defense Bar Section Meeting
Noon
ECBA Headquarters in-person or via Zoom

FRIDAY, OCTOBER 28, 2022

Diversity & Inclusion Section Meeting
Noon
ECBA Headquarters in-person or via Zoom

TUESDAY, NOVEMBER 1, 2022

Bocce Beer and Bites Tournament
Wrap-up Meeting
Noon
ECBA Headquarters in-person or via Zoom

WEDNESDAY, NOVEMBER 2, 2022

Annual Admissions Ceremony
11:00 a.m. - Court of Common Pleas Ceremony (Courtroom H)
11:45 a.m. - Lunch (Erie Club)
1:00 p.m. - Federal Ceremony (Courtroom A-280)

FRIDAY, NOVEMBER 4, 2022

Senior Lawyers Division Special Event
Tour of Erie Insurance:
The Thomas B. Hagen Building
11:00 a.m.

Click link for details

<https://www.eriebar.com/events/ecba-events/1770-senior-lawyers-division-special-event-tour-of-erie-insurance-the-thomas-b-hagen-building>

TUESDAY, NOVEMBER 8, 2022

Family Law Section Meeting
Noon
ECBA Headquarters in-person or via Zoom

WEDNESDAY, NOVEMBER 9, 2022

Workers' Compensation Section Meeting
4:00 p.m. * *time change for this meeting only*
ECBA Headquarters in-person or via Zoom

THURSDAY, NOVEMBER 10, 2022

Municipal Section Meeting
Noon
ECBA Headquarters in-person or via Zoom

FRIDAY, NOVEMBER 11, 2022

Wills for Heroes
1:00 - 4:00 p.m.
The Will J. Schaaf & Mary B. Schaaf Education Center

2022 BOARD OF DIRECTORS

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NOMINATIONS TO THE ECBA BOARD OF DIRECTORS

Pursuant to Article V, Section 4 of the *Erie County Bar Association Bylaws*, the Nominating Committee intends to propose the following for nominations at the Annual Membership Meeting on Thursday, December 15, 2022:

Second Vice President (1 yr. term):	Elizabeth A. Hirz
Treasurer (1 yr. term):	S. Craig Shamburg
Board Members (3 yr. terms):	Michael A. Agresti
	Neal R. Devlin
	Maureen G. Krowicki
	Andona R. Zacks-Jordan

Oct. 14, 21

SAFENET - LEGAL DEPT - PFACS ATTORNEY

DUTIES:

Provide legal consultation/representation to victims of domestic violence in civil procedures. Provide legal consultation to PFACS staff & meet with contract attorneys. Participate in task forces and trainings, maintain CLE credits.

QUALIFICATIONS:

Juris Doctor Degree; experience in family law preferred; PA license to practice law and membership in ECBA required. Must demonstrate sensitivity to the complexity of domestic violence issues.

Applicants should submit resumes to: lmartz@safeneterie.org

Sept. 30 and Oct. 7, 14, 21, 28 and Nov. 4, 11, 18

NOTICE – POSITIONS AVAILABLE 2023

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

The breakdown of available positions for 2023 is as follows:

Indigent criminal defendants – Adult	6 positions
Indigent criminal defendants – Juvenile	3 positions
Dependency/IVT Hearings	7 positions
PCRAs	1 position
Guardian Ad Litem	5 positions
Coordinating Guardian Ad Litem	1 position
Indigent criminal defendants – Homicide	

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

DEADLINE: October 28, 2022

In order to be considered for the 2023 contract year, **all** Attorneys currently under contract must reapply by the deadline date above.

Sept. 23, 30 and Oct. 7, 14, 21

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**IN THE INTEREST OF J.W., JR., A MINOR
APPEAL OF S.R., MOTHER AS TO ORDER CHANGING PERMANENCY GOAL**

INFANTS / DEPENDENCY / APPEAL AND REVIEW

When reviewing an order regarding the change of placement goal of a dependent child pursuant to the Juvenile Act, the Superior Court's standard of review is abuse of discretion. *In re B.S.*, 861 A.2d 974, 976 (Pa. Super. 2004).

INFANTS / DEPENDENCY / APPEAL AND REVIEW

The Superior Court is bound by the facts as found by the trial court if those facts are supported by the record. *In re K.J.*, 27 A.3d 236, 241 (Pa. Super. 2011).

*INFANTS / DEPENDENCY / APPEAL AND REVIEW /
DISCRETION OF LOWER COURT*

The Superior Court must determine that the lower court's judgment was manifestly unreasonable, that the lower court did not apply the law, or that the lower court's action was a result of partiality, prejudice, bias, or ill will, as shown by the record. *In re N.C.*, 909 A.2d 818, 822-23 (Pa. Super. 2006).

INFANTS / DEPENDENCY / DISPOSITION OF DEPENDENT CHILD

The focus of all dependency proceedings, including goal change proceedings, is on the safety, permanency, and well-being of the child; the child's best interest must take precedence over all other considerations. *In re A.K.*, 936 A.2d 528, 534 (Pa. Super. 2007).

INFANTS / DEPENDENCY / DISPOSITION OF DEPENDENT CHILD

At the dependency review hearing, the trial court must consider, *inter alia*, the continuing necessity for appropriateness of the child's placement, and the appropriateness and feasibility of the child's current placement goal. 42 Pa.C.S.A. § 6351(f)(1)(4).

INFANTS / DISPOSITION OF DEPENDENT CHILD

If reunification is not in the child's best interest, the trial court may determine that adoption is the appropriate permanency goal. 42 Pa.C.S.A. § 6351(f.1)(2).

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
JUVENILE DIVISION – DEPENDENCY
CP-25-DP-0000206-2021
No. 509 WDA 2022

Appearances: Anthony G. Vendetti, Esquire, Erie County Office of Children and Youth Solicitor
W. Charles Sacco, Esquire, for Appellant S.R., Mother
Christine Fuhrman Konzel, Esquire, Guardian Ad Litem for the Minor Child

1925(a) OPINION

Trucilla, J., June 1, 2022

This matter is before the Court upon the appeal of S.R. (hereinafter “Appellant” and/or “Mother”), the mother of J.W., Jr., (born August 2020), challenging this Court's decision to change the permanency goal from Reunification to Adoption. For the reasons set forth below, the instant appeal should be dismissed.

PROCEDURAL AND FACTUAL HISTORY

This matter involves the adjudication of dependency for one (1) minor child, J.W., Jr. born in August of 2020. Appellant is the biological mother of the child. The child's father is J.W., Sr., and is not a party to the present appeal.¹ An Emergency Protective Order was issued for the detention of J.W., Jr. on September 22, 2021. Subsequently, a formal adjudication of dependency was rendered on October 22, 2021. The dispositional goal of reunification was also established on October 22, 2021. Initially, Appellant was represented by Krista Ott, Esquire, however, she is currently represented by W. Charles Sacco, Esquire, who has brought the current appeal. Father was represented by Steven M. Srnka, Esquire. The child is currently represented by Guardian ad Litem (“GAL”) Christine Fuhrman Konzel, Esquire.

J.W., Jr. became involved informally with the Erie County Office of Children and Youth (“the Agency”) at the time of his birth in August 2020 due to Mother's lack of stable housing and Mother's positive test for marijuana (THC) at the time of the child's birth. *See* Recommendation for Shelter Care, 09/28/2021. The child also tested positive for THC at birth. *Id.* Consequently, the Agency offered Mother ongoing services, but Mother failed to utilize those services. Regrettably, the child was again exposed to the Juvenile Dependency system in 2021 due to Mother's lack of progress and out of concern for the child. On September 22, 2021, it was reported to the Agency that Appellant still did not have stable housing and was again abusing alcohol and marijuana. *See* Application for Emergency Protective Order, 09/22/2021. Father had a history of using crack cocaine. *Id.* Throughout this time, Father failed to appear for hearings despite receiving notice. *See* Recommendation for Shelter Care, 09/28/2021. Mother admitted to having a substance abuse history involving K2 (synthetic marijuana), cocaine, and THC. *Id.* As indicated above, Mother used THC during her pregnancy, as the child was born exposed to THC. *Id.*

Based on these and other facts, an Emergency Protective Order was issued by the Court on September 22, 2021. In the Order, the Court found that removal of the minor child was necessary for the welfare and best interest of the child. *See* Emergency Protective Order, 09/22/2021. Also, “[d]ue to the emergency nature of the removal and safety consideration of the child, any lack of services to prevent removal were reasonable.” *Id.* Consequently, J.W., Jr. was placed in the temporary protective physical and legal custody of the Agency and placed in a foster home as there was no viable family or kinship resource.

On September 24, 2021, the Agency filed a Dependency Petition alleging the child was a Dependent Child pursuant to 42 Pa.C.S.A. §6302. *See* Dependency Petition, 09/24/2021. The Agency averred J.W., Jr. was without proper parental care or control and alleged the following:

The Agency has concerns regarding [Mother]'s substance abuse. [Mother] has admitted to using marijuana and tested positive for THC and alcohol on August 24, 2021. She has a substance abuse history including K2, cocaine, and THC. The minor child was born exposed to THC.

¹ Father has not challenged the change of goal to adoption, and therefore Appellant's claim is not dependent on Father. Father has been uninvolved in J.W., Jr.'s life.

[Mother] has unstable housing and has been homeless multiple times since the child's birth. [Mother] is currently residing with her brother and his paramour. The Agency has observed signs of drug use from [Mother]'s brother and he and his paramour have a history with the Agency. [Mother] often leaves the child in the care of her brother and his paramour. Additionally, the home is not suitable for children. There are doors not attached to the hinges and wood shavings and dust throughout the home. The upstairs bathroom is unusable and there are holes in the floor covered up by wood. [Mother] has unstable and untreated mental health. She is diagnosed with Bipolar Disorder, Cannabis Related Disorder, Major Depressive/Single Episode/Severe with Psychotic Features, Episodic Mood Disorders, and Anxiety.

It is averred that [Mother] has an extensive history with the agency. She has four (4) children that were removed from her care and her parental rights were involuntarily terminated in November 2019. ***The children were removed for similar circumstances such as unstable housing, substance abuse and unstable mental health.*** (*emphasis added*).

See Dependency Petition, 09/24/2021.

In the Dependency Petition, the Agency motioned for a finding of aggravated circumstances and averred the following:

[T]hat it would be contrary to the welfare, safety and health of the child to remain under the care of [parents].

[T]hat reasonable efforts were made to prevent the placement of the child. The Mother has been open with the Agency since October of 2020 and has made minimal progress. She has been provided resources to locate stable housing and has not been participating in D&A and mental health services.

The Child is born to a parent, [Mother], whose parental rights with regard to another child have been involuntarily terminated under 23 Pa. C.S.A. §2511 (relating to grounds for involuntary termination) within three years immediately preceding the date of birth of the child and conduct of the parent poses a risk to the health, safety or welfare of the child.

See Dependency Petition, 09/24/2021 at 4-5.

In support of their Petition and assertions of aggravated circumstances against Mother, the Agency attached four (4) Decrees dated November 12, 2019, and signed by Senior Judge Shad Connelly terminating Mother's rights to four (4) children. See *Id.* at Exhibit A.

Consequently, on September 28, 2021, a Shelter Care Hearing pursuant to 42 Pa.C.S.A. § 6332 was held before the Juvenile Hearing Master, Carrie Munsee, Esquire. See Master's Recommendation for Shelter Care and Order, September 28, 2021. Mother was present and represented by Attorney Ott. *Id.* The Master noted that Father did not appear at the hearing and recognized that Mother had an active Protection from Abuse Order against him.² *Id.*

² Mother's PFA against Putative Father expired in November 2021.

The Master found sufficient evidence was presented to establish it was not in the child's best interest to remain in the home of Mother. *Id.* Therefore, she recommended that the child remain in the foster home. *Id.*

To support her findings, Master Munsee received testimony from the Agency caseworkers Danielle Lubak and Sandra Tate and Mother. *Id.* Mother contested the Agency's request for continued temporary foster care. *Id.* The Agency called Ms. Lubak who testified that Mother and child have been "opened with ongoing Agency services" since October 2020. *Id.* Ms. Lubak indicated the Agency provided Mother with services from the day of the child's birth because the child was born exposed to THC. *Id.* The child was not removed at birth, but the Agency remained involved due to "... [M]other's positive test for drug use at the time of the child's birth." *Id.* Ms. Lubak stated she became involved with Mother on September 21, 2021, after the Agency was again made aware of Mother's unstable housing and her continued drug and alcohol use in front of the child. *Id.* In fact, out of concern for the safety of the child, Ms. Lubak attempted to see the child, but Mother refused to let her. *Id.* Ms. Lubak had concerns for Mother's current housing because it was actually the home of Mother's brother and his paramour. *Id.* Ms. Lubak was "...not able to determine the sleeping arrangements and noted the house was very unfinished, [was] currently being worked on, and there were several safety hazards such as wood shavings, electrical concerns, and so forth with the structure." *Id.*

Agency Caseworker Sandra Tate gave testimony regarding Mother's unsafe housing. Ms. Tate stated there was no electricity in the upstairs area where Mother was staying with child and that there were exposed wires in the stairway. *Id.* In her findings, Master Munsee noted: "Ms. Tate indicated that throughout her involvement with her, [Mother] has denied the need for any services." *Id.* at 2. Ms. Tate stated there was a significant concern for domestic violence between the child's mother and father. *Id.* Mother had been told numerous times the process of obtaining a PFA and only obtained one "...when [Father] pulled a gun on [Mother] and pointed it at her head." *Id.* Ms. Tate further testified that: "[Mother] is argumentative about marijuana being her mental health medication, though she is not prescribed marijuana. [Mother] ha[d] very recently re-engaged with mental health counseling after significant prompting by Ms. Tate." *Id.* Information at the hearing also revealed that Mother also was arrested in July 2021 for public intoxication and "acted aggressively towards the police" and "made statements that she didn't know where her child was." *Id.* Master Munsee wrote: "Upon conclusion of the testimony, the child's GAL was in agreement with continued temporary Agency care." *Id.*

Following the recommendation from Master Munsee, which was adopted by the Court on September 28, 2021, an Adjudication Hearing was held on October 22, 2021, before the undersigned. See Order of Adjudication and Disposition, 10/26/2021. At the hearing, Mother was present and represented by Attorney Ott. *Id.* Father did not appear and was not represented by counsel. *Id.* Mother stipulated to the allegations of dependency.³ *Id.* Based on Mother's agreement to the contents of the Dependency Petition and with the concurring agreement of the Guardian Ad Litem, the Court found that clear and convincing testimony existed to adjudicate the child dependent pursuant to 42 Pa. C.S.A. § 6302(1), (10). *Id.* Additionally,

³ The allegations of dependency were set forth against Mother in the Agency's Petition for Dependency. See Dependency Petition, 09/24/2021.

pursuant to Pa.R.J.P. 1705 and 42 Pa.C.S.A. §6341(c.1), the Court additionally determined that aggravated circumstances existed against Mother due to the involuntary termination of Mother's parental rights to four (4) of her other children in November 2019. *Id.* See also Dependency Petition, 09/24/2021 at Exhibit A.

Based on the facts set forth in the Dependency Petition and established at the hearing, Mother was ordered to:

Refrain from the use of drugs and/or alcohol and submit to a random urinalysis testing through the Esper Treatment Center; participate in a drug and alcohol assessment and follow through with recommendations and demonstrate skills learned; and continue to participate in mental health services and follow all recommendations. Mother shall undergo a new mental health assessment if deemed necessary by the provider.

See Order of Adjudication and Disposition, 10/26/2021 at p. 3.

The Court established J.W., Jr.'s permanent placement goal as reunification with Mother and/or Father and scheduled a five (5) month Permanency Review Hearing for March 30, 2022, to allow both parents sufficient time to work on the treatment plan and demonstrate compliance. *Id.* at 2, 5.

On March 2, 2022, prior to the Permanency Review Hearing, the Agency filed a Motion to Change Permanency Goal from Reunification to Adoption. In support of their motion, the Agency alleged Mother had been substantially non-compliant with her court-ordered treatment plan, Mother had her rights terminated to four (4) other children, and she had extensive prior involvement with the Agency which revealed non-compliance, therefore, the goal change was ultimately in the best interest of the child. See Motion to Change Permanency Goal, 03/02/2022 at ¶¶6-7. The Agency further averred that Father was currently back in Erie County Prison and had very little contact with the Agency and was also substantially non-compliant and not a viable reunification resource for the child. *Id.* at ¶8.

The Court conducted a Permanency Review Hearing and Change of Goal Hearing on March 30, 2022, and concluded that Mother and Father were substantially non-compliant. See Permanency Review Order, 04/05/2022. At the Change of Goal/Review Hearing, Appellant appeared and was represented by Attorney Sacco. Father was present and represented by Steven M. Srnka, Esquire. The child's GAL, Attorney Konzel, was also present. Representing the Agency were Agency Solicitor Attorney Vendetti and Agency caseworker Sandra Tate. Before the hearing, the Court received a Court Summary prepared by the Agency, a letter from Mother, a Stairways Behavioral Health assessment for Mother, a police report from 541 West 2nd Street,⁴ and a genetic report which confirmed J.W., Sr., to be the biological father of the child. N.T., 03/30/2022 at 4-5. The Court made these documents part of the record without objection by the parties. See *Id.*; see also, Court Summary, 03/30/2022. Initially, the Court noted, "...that the child in this matter was born exposed to THC marijuana [a]nd Mother present[ed] with aggravated circumstances as there was a prior involuntary termination..." *Id.* The Agency noted that Father has been non-compliant, even during the period where he was not incarcerated while the case was open. *Id.* at 5-6. The Agency provided Father with a treatment plan and he did not comply. *Id.* at 6.

⁴ The report involved a domestic violence situation that occurred between Mother and her boyfriend, Mr. William "Ty" Tyrone Brewington.

The Court then addressed Mother's letter written to the Court and made it part of the record. In her letter, Mother "...professes that she wants to prove that she can be a functioning Mother for the return of this child to her. And that she should not be judged for her prior actions and that this time she's sincere that she no longer drinks alcohol." *Id.* After addressing Mother's letter, the Court stated that the court summary shows Mother has not been compliant with any aspect of the Court ordered treatment plan. *Id.* The Court continued and stated, Mother also had not visited with her child in five (5) months due to her "no-show" positive urine test results.⁵ *Id.* Prior to this hearing, Mother claimed to have a medical marijuana card but had never provided it to the Court or to the Agency. *Id.* at 7. However, at the hearing, Mother supplied the Court with her medical marijuana card. *Id.* Mother obtained the card on February 8, 2022, and it is valid for one (1) year. *Id.* Despite having a medical marijuana card and understanding that not appearing at a drug test would be considered a positive test result resulting in missed visits with the child, Mother did not start attending her drug screens until March 2022. *Id.*

At the review hearing, the Court first received testimony from Agency caseworker, Ms. Sandra Tate. Ms. Tate provided the Court with Mother's updated urinalysis reports. Ms. Tate stated:

We have 3/1/22 positive for THC, we didn't receive it until 3/8. 3/4 positive for marijuana, received 3/11. 3/8 positive for marijuana THC received on 3/15. 3/10 positive for THC received on 3/16. 3/11 no show. 3/16 no show. 3/17 positive for THC received 3/23. 3/21 no show. And 3/22 no show.

N.T., 03/30/2022 at 7-8.

The Court acknowledged that since Mother had obtained a medical marijuana card, the urines which were positive for THC would not be considered by the Court against Mother. *Id.* However, the Court took issue with Mother's "no shows" because of her long history of alcohol and/or cocaine use and that these no-shows prevented Mother from having in-person visits with the child. *Id.*

The Court next addressed Mother's mental health. Mother had been diagnosed with Major Depressive Disorder, Cannabis Use Disorder, Cocaine Use Disorder, and Alcohol Use Disorder. *Id.* at 4-5. Ms. Tate confirmed that Mother underwent a mental health assessment, but failed to follow through with medication management. *Id.* at 8. On cross-examination, Ms. Tate acknowledge that although Mother attended sixteen group sessions and four individual appointments, the sessions were virtual. Importantly, Mother's counselor believed that Mother "...was not on pace to really be sincere about her addiction problem." *Id.* at 23. Ms. Tate read the last sentence of Mother's counselor's report which stated: "She was unsuccessfully discharged on 3/11/22 for excessive nonattendance and poor follow through." *Id.*

Next, the Court addressed Mother's housing situation and her inability to keep and maintain safe and stable housing. Regarding her housing, Ms. Tate testified that Mother was residing with Mr. William "Ty" Tyrone Brewington. See Court Summary, 03/30/2022; N.T., 03/30/2022

⁵ When a parent whose child has been adjudicated dependent fails to appear for a mandated urinalysis, the "no-show" is considered a positive test result. Mother was quite familiar with this process and that her visits were contingent on clean urines. Caseworker Tate had even reviewed this policy with Mother and it was contained in her Treatment Plan. See N.T., 03/30/2022 at 40.

at 23. Next, Ms. Tate offered testimony regarding Mother's involvement in domestic violence. Mother had a prior Protection from Abuse ("PFA") Order against the child's father, J.W., Sr. N.T., 03/30/2022 at 24-25. Now, there is a history of domestic violence between Mother and Mr. Brewington as evidenced by the police report from January 4, 2022. *See* Court Summary at 9. The police report indicated that Mother was out all night partying and while in a vehicle with Mr. Brewington he punched her in the face causing Mother to jump out of a moving car. N.T., 03/30/2022 at 28. Mother interjected and said none of the information in the police report against Mr. Brewington was true and that she "...just lied because [she] was belligerent and drunk." *Id.* at 41. The Court finds Mother's statement to be unpersuasive and incredulous and was made simply to allow her to continue to reside with Mr. Brewington. The Court also learned that Mother is not on the lease and these circumstances again demonstrate that Mother was not compliant in finding safe and stable housing.

When first asked about Mr. Brewington, Mother informed the Agency that Mr. Brewington was her Uber driver. *Id.* at 10. Mother then changed her answer and said she was living with him and they were involved in a relationship. *Id.* The Court asked Ms. Tate if Mr. Brewington's home was a safe and stable home for the child and Ms. Tate stated that it was not. *Id.* Accordingly, Ms. Tate concluded that Mother was not compliant with the requirement that she find safe and stable housing. *Id.* Ms. Tate testified that Mother is not on Mr. Brewington's lease and does not have any legal claim to the property. *Id.* at 28. This further corroborated that Mother had failed to secure safe and stable housing for her children. Ms. Tate confirmed there was a domestic violence report from January 4, 2022, involving Mother and Mr. Brewington. *Id.* at 24. Ms. Tate testified that her concern was for the safety of the child to prevent exposing the child to domestic violence. *Id.* at 25.

Next, Ms. Tate testified that Mother has not maintained employment. *Id.* at 11. Ms. Tate testified that Mother was non-compliant with the Treatment Plan because she failed to participate in an approved parenting plan. Ms. Tate even made referrals for Mother to get her in a parenting program but Mother failed to comply. *Id.* at 11. Mother's participation in a parenting program was paramount because of her prior involuntary terminations ("IVT") of her parental rights. *Id.* At this point, Ms. Tate characterized Mother as non-compliant. *Id.* at 11-12.

Ms. Tate further emphasized that Mother presents with the same issues from 2012 that resulted in her parental rights being terminated. *Id.* at 15. Attorney Vendetti, on behalf of the Agency, asked Ms. Tate: "So again, we have the same issues from 2012, ten years later almost?" *Id.* at 15. Ms. Tate replied, "That is correct." *Id.* Ms. Tate continued her testimony and noted that the child had been placed in a foster home that met the needs of the child. *Id.* Ms. Tate stated that upon the child's placement, he smelled of cigarettes, was fearful of baths, and had high lead levels. *Id.* After his placement, the child's lead levels decreased and reached a safe level, and any prior concerns regarding his well-being had been alleviated. *Id.* Ms. Tate stated the child was surpassing his milestones. *Id.* at 17. Ms. Tate testified that it is in the child's best interest to change the goal to adoption. *Id.*

Attorney Konzel, as the GAL, next asked Ms. Tate the following questions on direct examination:

MS. KONZEL: With regard to mom, because there were aggravated circumstances in this case, because she had other children removed, why did the Agency offer her care in the first place?

MS. TATE: Because I was trying to give her a chance. My Supervisor and I discussed it. I had her prior to...the child being removed. I knew at that point there were concerns, but she was trying. You would think that she would immediately started to do what she needed to do... It's clear she has the domestic violence concerns.

MS. KONZEL: So you basically gave her a break by not proceeding on the aggravated circumstances and gave her these six months to prove herself — or more than that?

THE COURT: Well, Ms. Tate didn't give her the break, I think the Court ---

MS. KONZEL: The Court. I apologize for that, but I'm saying the goal was too —

THE COURT: No. [Ms. Tate] advocated for it and I think, if I can clarify it, I was empathetic too, to her words, because isn't the history of her — even in the letter she just dropped off it sounds good. I mean, and when she's with you she sounds sincere, that's why we started this off. Would this be fair, actions speak louder than words?

MS. TATE: That is correct.

THE COURT: But I think the record should reflect that Ms. Tate went to bat for her and the Court agreed. And we did, out of deference, we wanted reunification to...give her a fair chance to see if it would work.

N.T., 03/30/2022 at 18-19.

Attorney Sacco was next given the opportunity to cross-examine Ms. Tate. Ms. Tate testified to Mother's unsafe living conditions and Mother's inability to follow through on her therapy. *See infra* at 2-4, 7-8. *See also* N.T., 03/30/2022 at 22-28. Ms. Tate was then questioned on Mother's source of income and indicated Mother was receiving social security benefits as a form of income. *Id.* at 29. Mother explained that she receives social security due to a learning disability, anxiety and depression. *Id.* at 31. Mother interrupted Ms. Tate's testimony to state she was not depressed when she had her son, and only developed depression as a result of the Agency removing her son. *Id.* at 31. Mother stated: "When I had my son I wasn't depressed. I was supper [sic] happy. I was enjoying life. Depression came to me once they took my son from me." *Id.* The Court stated: "Well the argument was you were enjoying it too much. [The child] was born exposed to marijuana..." *Id.* Based on Mother's statements the Court felt compelled to depart from Ms. Tate's testimony and asked Mother the following questions:

THE COURT: Why did you smoke marijuana then when you were pregnant?

MOTHER: I have — I have back pain.

THE COURT: There are other medications to take.

MOTHER: And I had depression, and medicine was — it doesn't work for me.

THE COURT: Well, then, you just admitted it. You can't have it both ways. Did you have depression before you had your child? Yes.

MOTHER: When I — yes. Before I had gave birth to my child and —

THE COURT: So you can't say I'm depressed now.

THE COURT: You think your childhood, teenage, and adult depression went away on the birth of your son?

MOTHER: Um — it did.

MOTHER: Just because I get depressed every once and a while doesn't mean I can't raise my son.

N.T., 03/30/2022 at 31-32.

The Court further confronted Mother regarding her marijuana use prior to obtaining a medical marijuana card and asked Mother the following:

THE COURT: You know [marijuana] only stays in your system for 30 days. You're a long-time marijuana smoker. So why didn't you stop on October 26th the day there was a formal adjudication of dependency? You came into this case already having kids taken away from you. Why didn't you just say I'm going to stop and I'll show up in November and I'll show I can be clean.

MS. RODGERS: Like I said, Your Honor — before I was being selfish.

THE COURT: Okay. That's fair. I get that.

MS. RODGERS: I was being very, very selfish and put my hands into God, I finally turned to prayer. I finally turned around to God.

THE COURT: Okay.

N.T., 03/30/2022 at 37-38.

Mother's excuse for her non-compliance was to consistently tell the Court: "I'm selfish." See *Id.* at 37, 40, 41, 42, 50. In fact, the Court confronted Mother about her "no-shows" which are considered a positive test result causing her to miss five (5) months of visits with J.W., Jr. *Id.* at 46. Mother's only response to the court was "I'm selfish." *Id.* Mother again minimized her problems with alcohol by refusing to attend counseling or inpatient treatment at the Gage House because she testified she "didn't need it." *Id.* at 43. Throughout Mother's

testimony, she continually refused to accept she had any problems. Mother not only refused the services for drug and alcohol treatment, she also rejected the offer by Ms. Tate for safe housing at the Mercy Center. *Id.* at 51-52.

Prior to the conclusion of the hearing, the Court received testimony from Father. Father testified that he was scheduled for a probation revocation hearing on April 4, 2022. *Id.* at 54. Father was charged on February 14, 2022, with two counts of Theft by Unlawful Taking — 18 Pa.C.S.A. §3921(a) and one count of Receiving Stolen Property — 18 Pa.C.S.A. 3925(a). Father was incarcerated at the time of the hearing on one count of Terroristic Threats — 18 Pa.C.S.A. §2706(a)(1). *Id.* at 54-55. Father admitted to using drugs and being abusive towards Mother. *Id.* As recognized on the record and premised on Father's current criminal sentence, if Father's supervision is revoked, he foreseeably would face incarceration at a state correctional facility. *Id.*

At the conclusion of the hearing, the Court asked the GAL if her support of the change of goal to adoption had changed and the GAL stated:

No, Your Honor. This child is one and a half years old. He's been in care since October of last year. When he came to the care of the pre-adoptive family that he's in, he came dirty, he came smelling of smoke, he was fearful of the bathtub...and high levels of led[sic]. That's all indicated in the resource report. With regard to mom, she's lost four other children. There were aggravated circumstances here. Throughout her testimony she's indicating that she won't go back to Stairways. She wasn't doing anything in compliance with the Court's order and she's been through this process years before.

... she was cut a break by not going [directly to adoption] under aggravated circumstances.

Before and even now [Mother] stands here and says she's willing to do this program, Project First Step, but she wasn't willing to do other programs. She wasn't willing to go to Gage House. She wasn't willing to go to Mercy Center, knowing full well that this is what the Court wanted in order for her to get her child back.

N.T., 03/30/2022 at 60-61.

The Court stated:

I think if anyone understood the need or urgency to comply, it was mother... There is part of me that senses that mother does love her son but then, again, the theme of this case is actions speak louder than words. She was given every opportunity to comply. Ms. Tate could not have been more deferential or assisting and none of that was taken advantage of by Mother.

N.T., 03/30/2022 at 61-62.

The Court summarized Mother's non-compliance as follows:

So at this point, there is no compliance. And here's a woman who has gone through this before losing four other children.... her parental rights being involuntarily terminated. And then this gets opened back in October, so we've had one review — we've had our first review hearing, and then now we have this, and we haven't seen any progress.

N.T., 03/30/2022 at 11-12.

The Court recognized that the Agency caseworker, Ms. Tate, tried to assist Mother and work with her in order to reunify with the child. However, Mother would not follow through with these services as demonstrated by her lack of commitment to reunification. For example, Ms. Tate brought Mother an application for the Mercy Center for Women, but Mother chose not to follow through. The Court stated: “[Ms. Tate’s] efforts have been to really offer her a helping hand or assistance in many of these matters that we found important, parenting plan, the mental health assessments, the living arrangements at Mercy Center, and yet she hasn’t taken advantage of your assistance.” *Id.* at 13. Ms. Tate testified that she has made herself available to Mother throughout this matter, but Mother fails to follow through despite meeting with Ms. Tate on a monthly basis. *Id.* at 13-14.

Premised on the parents’ non-compliance with the Court ordered treatment plan and in the best interest of the child, the Court ruled: “In the best interest of this child and knowing all the reasons I’ve set forth on this record, the court summary, the other reports, the responses and questions provided here, I’m going to change the goal to adoption.” *Id.* The Court’s resulting determination to change the goal from reunification to adoption is the subject of the appeal *sub judice*. See Permanency Review Order, 04/05/2022.

ISSUE PRESENTED

In Mother’s 1925(b) Statement, Appellant asserts a boilerplate claim that: “[t]he Juvenile Court committed an abuse of discretion and/or error of law when it found clear and convincing evidence existed that the current permanency goal of Reunification was no longer feasible and changed the goal directly to Adoption.” See Concise Statements of Errors Pursuant to Pa.R.A.P. 1925(b). For reasons set forth below, Appellant’s claim is devoid of factual or legal merit and should therefore be dismissed.

DISCUSSION

A. Applicable Law

The Court is not required to guess what errors Appellant is raising on appeal. Pursuant to Pa.R.A.P. 1925 (4)(ii), Appellant is to “concisely identify each error that the appellant intends to assert with sufficient detail to identify the issue to be raised for the judge.” In Appellant’s 1925(b) Statement, Appellant sets forth a boilerplate assertion without reference to specific detail regarding how the Court abused its discretion or how the Court impermissibly relied on improper facts to support its change of goal. Appellant has never challenged any facts or testimony set forth at the hearings in this dependency matter or the documents relied on by the Court to support its findings. Appellant’s claim should be considered waived and therefore dismissed due to the blatant use of generic language and failure to provide sufficient detail of the issues to be raised for the Court.

Assuming *arguendo* Appellant’s pleading in her 1925(b) Statement is not waived for mere

boilerplate language and vagueness, this court will address the issue below.

The Court notes the relevant standard of review for a change of goal as set forth by the Superior Court of Pennsylvania is as follows:

We review an order regarding a placement goal of a dependent child under an abuse of discretion standard. *In re B.S.*, 861 A.2d 974, 976 (Pa. Super. 2004). In order to conclude that the trial court abused its discretion, we must determine that the court’s judgment was manifestly unreasonable, that the court did not apply the law, or that the court’s action was a result of partiality, prejudice, bias or ill will, as shown by the record. *In re N.C.*, 909 A.2d 818, 822-23 (Pa. Super. 2006) (citation and internal quotation marks omitted).

When this Court reviews a trial court’s decision to change a permanency goal, we are bound by the facts as found by the trial court if they are supported by the record. *In re K.J.*, 27 A.3d 236, 241 (Pa. Super. 2011). In addition, it is the responsibility of the trial court to evaluate the credibility of the witnesses and resolve any conflicts in the testimony. *In re N.C.*, 909 A.2d 818, 823 (Pa. Super. 2006). Accordingly, the trial court is free to believe all, part, or none of the evidence. *Id.* (citation omitted). Provided the trial court’s findings are supported by competent evidence, this Court will affirm, even if the record could also support an opposite result. *In re Adoption of R.J.S.*, 901 A.2d 502, 506 (Pa. Super. 2006) (citation omitted).

In the Interest of H.J., 206 A.3d 22, 25 (Pa. Super. 2019) (internal quotation marks omitted).

Placement of and custody issues pertaining to dependent children are controlled by the Juvenile Act, 42 Pa.C.S.A. §§ 6301, *et seq.* “The policy underlying these statutes is to prevent children from languishing indefinitely in foster care, with its inherent lack of permanency, normalcy, and long-term parental commitment.” *In re N.C.*, 909 A.2d 818, 823 (Pa. Super. 2006).

The Juvenile Act authorizes, *inter alia*, a child to be taken into custody pursuant to an Emergency Order by the Court of Common Pleas if the Court makes a finding “that to allow the child to remain in the home is contrary to the welfare of the child.” 42 Pa.C.S.A. § 6324(1). If a child is taken into custody by virtue of an Emergency Protective Order, an informal (Shelter Care Hearing) must be held no later than 72 hours later “to determine whether . . . detention or shelter care is required . . . [and] whether to allow the child to remain in the home would be contrary to the welfare of the child . . .” 42 Pa.C.S.A. § 6332(a). Further, “[i]f the child is alleged to be a dependent child, the court or master shall also determine whether reasonable efforts were made to prevent such placement or, in the case of an emergency placement where services were not offered and could not have prevented the necessity of placement, whether this level of effort was reasonable due to the emergency nature of the situation, safety considerations and circumstances of the family.” *Id.* If it is determined that the child cannot be released from detention or shelter care, “a [dependency] petition shall be promptly made and presented to the court within 24 hours or the next court business day of the admission of the child to detention or shelter care.” 42 Pa.C.S.A. § 6331. A hearing must occur no later than 10 days after the filing of the petition. 42 Pa.C.S.A. § 6335.

After the hearing on the dependency petition, “the court shall make and file its findings as to whether the child is a dependent child.” 42 Pa.C.S.A. § 6341(a). The burden of proof to find

a child dependent is clear and convincing evidence. 42 Pa.C.S.A. § 6341(c). After making a finding that the child is dependent, “the court shall proceed immediately or at a postponed hearing, which shall occur not later than 20 days after adjudication if the child has been removed from his home, to make a proper disposition of the case.” *Id.* The court may make any disposition of the case “best suited to the safety, protection and physical, mental, and moral welfare of the child.” 42 Pa.C.S.A. § 6351(a). This may include remaining with parents/guardians or transferring legal custody to an individual “found by the court to be qualified to receive and care for the child,” or transferring legal custody to a qualified public or private agency. *Id.* Prior to removing the child from his or her home, the court must make a finding:

- (1) that continuation of the child in his home would be contrary to the welfare, safety or health of the child; and (2) whether reasonable efforts were made prior to the placement of the child to prevent or eliminate the need for removal of the child from his home, if the child has remained in his home pending such disposition; or (3) if preventive services were not offered due to the necessity for an emergency placement, whether such lack of services was reasonable under the circumstances; or (4) if the court has previously determined pursuant to section 6332 (relating to informal hearing) that reasonable efforts were not made to prevent the initial removal of the child from his home, whether reasonable efforts are under way to make it possible for the child to return home; and (5) if the child has a sibling who is subject to removal from his home, whether reasonable efforts were made prior to the placement of the child to place the siblings together or whether such joint placement is contrary to the safety or well-being of the child or sibling.

42 Pa.C.S.A. § 6351(b).

Following adjudication and disposition hearings as set forth above, the court must conduct regular permanency hearings to review “the permanency plan of the child, the date by which the goal of permanency for the child might be achieved, and whether placement continues to be best suited to the safety, protection and physical, mental and moral welfare of the child.” 42 Pa.C.S.A. § 6351(e).

In any permanency review hearing, the Court must consider the statutorily-mandated factors as set forth in 42 Pa.C.S.A. § 6351(f) in determining if the child’s permanent placement goal “continues to be best suited to the safety, protection and physical, mental and moral welfare of the child.” *Id.* These factors include, inter alia:

- (1) The continuing necessity for and appropriateness of the placement.
- (2) The appropriateness, feasibility and extent of compliance with the permanency plan developed for the child.
- (3) The extent of progress made toward alleviating the circumstances which necessitated the original placement.
- (4) The appropriateness and feasibility of the current placement goal for the child.
- ...
- (6) Whether the child is safe . . .

Id. Based on the Court’s consideration of all relevant evidence presented and the statutory factors at 42 Pa.C.S.A. § 6351(f), the Court must then determine if the child’s permanent placement goal will remain the same or change. 42 Pa.C.S.A. § 6351(f.1). Once the Court has made a determination as to the appropriate placement goal, the Court shall issue an order regarding “the continuation, modification or termination of placement or other disposition which is best suited to the safety, protection and physical, mental and moral welfare of the child.” 42 Pa.C.S.A. § 6351(g).

When considering a change of the child’s permanent placement goal, “**the best interests of the child**, and not the interests of the parent, must guide the trial court, and the parent’s rights are secondary.” *In re M.T.*, 101 A.3d 1163, 1173 (Pa. Super. 2014) (citing *In re A.K.*, 936 A.2d 528, 532–533 (Pa. Super. 2007)) (*emphasis added*). “The burden is on the Agency to prove the change in goal would be in the child’s best interests.” *Id.* (citing *In the Interest of M.B.*, 674 A.2d 702, 704 (Pa. Super. 1996).

It is well-settled that “[i]f reunification with the child’s parent is not in a child’s best interest, the court may determine that Adoption is the appropriate permanency goal.” *Interest of H.J.*, 206 A.3d at 25; *see also*, 42 Pa.C.S.A. § 6351(f.1)(2). The Superior Court of Pennsylvania has held that once reasonable efforts have been made to return a child to a parent but those efforts have failed, “. . . the agency must redirect its efforts towards placing the child in an adoptive home.” *Interest of H.J.*, 206 A.3d at 25. The placement process “. . . should be completed within 18 months.” *Id.* “A child’s life simply cannot be put on hold in the hope that the parent will summon the ability to handle the responsibilities of parenting.” *Id.* at 25 (citing *In re Adoption of M.E.P.*, 825 A.2d 1266, 1276 (Pa. Super. 2003)). With these rigorous standards in mind, the Court concluded that a change of goal to Adoption was in the minor child’s best interest. Support for the Court’s finding is found in the discussion to follow.

B. This Court’s change of goal to adoption is in J.W., Jr.’s best interest and is overwhelmingly supported by the record.

Initially, the Court notes that Appellant has not challenged the initial removal of the child by Emergency Protective Order pursuant to 42 Pa.C.S.A. § 6324(1). Appellant also does not challenge and, in fact, stipulated to, the Adjudication of the child as a dependent child pursuant to 42 Pa.C.S.A. § 6341(a), (c). *See* Order of Adjudication and Disposition, 10/26/2021. Appellant also did not object to the several documents made part of the record throughout this case and at the Permanency Review Hearings. Therefore, the only challenge in the appeal *sub judice* is whether this Court erred in its determination on March 30, 2022, and abused its discretion to change the goal to adoption. As will be demonstrated, Appellant’s claim is without merit and warrants dismissal.

Cognizant of the above statutory mandates and case law, this Court considered the entire facts and circumstances of this matter, including Mother’s lengthy ten (10) year history with the Agency, and the findings of aggravated circumstances against Mother, in making its determination that changing the permanency placement goal of J.W., Jr. to adoption was the disposition “best suited to the safety, protection and physical, mental and moral welfare of the child.” 42 Pa.C.S.A. § 6351(f.1), (g). The Court’s decision was also premised on the factors at 41 Pa. C.S.A. § 6351(f).

The Court concluded that, in the best interest of the child, the placement of the child

continues to be necessary and appropriate. *See* Permanency Review Order, 04/05/2022 at p.1. Further, reasonable efforts were made by the Agency to finalize the children's permanency plans. *Id.* The Agency ensured the child has been receiving regular opportunities to engage in age-appropriate activities. *Id.* Crucially, the Court found that Appellant has not been compliant with the permanency plan, and had not made any progress toward alleviating the circumstances which necessitated the children's original placement. *Id.* In fact, Mother's history indicates that the same reasons which resulted in her parental rights being terminated for four (4) children in November 2019 still exist in the current dependency matter. Specifically, there are ongoing concerns with Appellant's mental health (including bipolar disorder, cannabis-related disorder, major depressive with severe psychotic features, mood disorder, and anxiety), drug use, unstable housing, and parenting skills, including her ability to keep the children safe. Appellant had previously had four (4) children removed from her home in 2019. *Id.*

Mother's non-compliance includes her failure to not follow through with her mental health treatment as evidenced by her discharge from Stairways Behavioral Health for excessive non-attendance. N.T., 03/30/2022 at 23. Mother presents with very serious mental health diagnoses including: Bipolar disorder, Cannabis Related Disorder, Cocaine Related Disorder, Major Depressive/Single Episode/Severe with Psychotic Features, Episodic Mood Disorders, and Anxiety.

Next, there are continued concerns about Appellant's ability to keep the child safe, as illustrated by her unstable living situation. Mother was residing with a man (Mr. Brewington) she was involved in a domestic dispute with and in a residence where she has no legal standing. *Id.* at 28. Mother is not on the lease and the property is exclusively owned by Mr. Brewington. In other words, Mother could be evicted at any time from this residence without legal recourse or claim to stay. Additionally, the Agency had also determined that Mr. Brewington's home is not safe for the child. *Id.* at 10. Mother also had several no-show positive test results and was receiving no drug and alcohol treatment despite her diagnoses of Cocaine Use Disorder and Cannabis Use Disorder.

Consequently, the circumstances which necessitated the placement of the child including Appellant's ability to safely parent the children; her unstable housing; concerns about her mental health; and concerns about her drug and alcohol use, have not been alleviated. Appellant remains in virtually the same position as she was in September 2021, when J.W., Jr. was first removed and adjudicated dependent. The history of Mother's involvement with the Agency would actually suggest Mother remains in the same position as she was back in 2012 when she first became involved with the Agency with her four (4) children resulting in the involuntary termination of her parental rights. Appellant has had plenty of time to demonstrate compliance with the treatment plan but has failed to do so. Appellant throughout her history makes promises that she will comply but then fails. Mother, although well intended, has failed to support her statements by actions and comply with the Court's plan. Mother admitted she was "selfish" and because of her incredulity, the child is left without proper parental care. The Court finds Mother's excuse for non-compliance that she was being "selfish" to be wholly unacceptable and unpersuasive regarding her "renewed" intention to adequately parent J.W., Jr. Mother's prior ten (10) year involvement with the Agency and the resulting termination of her parental rights, armed Mother with a heightened awareness of the severe consequence of non-compliance.

Yet despite this history, Mother nonetheless remains non-compliant.

The collective evidence presented indicates the child is in desperate need of permanency and stability. J.W., Jr. has been in placement for seven (7) months. Mother has demonstrated she is not a reliable resource for Reunification with the child. The Agency's caseworker, Ms. Tate, received a resource family report from the foster family saying J.W., Jr. has established a bond with their family. N.T., 03/30/2022 at 16. The foster home has greatly impacted the child's quality of life. While in Mother's care, J.W., Jr. was diagnosed with high lead levels which have since decreased since being in his foster home. *Id.* Also while with Mother, J.W., Jr. was three (3) immunizations behind on his yearly shots due to several missed doctor appointments. Court Summary, 03/30/2022 at 3. Since being placed in foster care, J.W., Jr. is up to date on all his immunizations. *Id.* The foster home is meeting the minor child's needs and providing him with a safe, stable, and loving home environment.

In consideration of the evidence and testimony presented, the Court found the Agency had met its burden in demonstrating that a goal change to adoption is in the child's best interest. The child's physical and emotional needs are being treated and met. Appellant has failed to "alleviate the circumstances which necessitated the original placement" and has demonstrated, at most, minimal compliance with treatment plans designed to effectuate reunification. *See* 42 Pa.C.S.A. § 6351(f). Mother's lack of any meaningful or even marginal compliance, unfortunately, exposes the harsh reality that Mother is ill-equipped to safely parent the child.

In summation, Mother's lengthy ten (10) year history with the Agency which attempted to address the same concerns voiced by the Agency in this case, her prior IVTs, and her current non-compliance demonstrate the need to change the goal to adoption. Adoption will provide the child with vital permanency and stability to serve his best interest. The child simply cannot wait for Appellant to decide to comply with the treatment plans or "summon the ability to handle the responsibilities of parenting" and for Mother to not be "selfish." *See Interest of H.J.*, 206 A.3d at 25. Mother has simply proven that she is not a reliable reunification resource firmly committed to the exclusive health, safety, and well-being of J.W., Jr. Consequently, the change of goal to adoption is in the child's best interest, and adoption is "best suited to the children's safety, protection, and physical and moral welfare." 42 Pa.C.S.A. § 6351(f.1), (g); *see also, In re N.C.*, 909 A.2d at 823; *In re M.T.*, 101 A.3d at 1177; *Interest of H.J.*, 206 A.3d at 25-27.

Therefore, Appellant's challenge to this Court's determination to change the goal to adoption is without legal or factual support and must be dismissed.

CONCLUSION

For the reasons set forth above, the issue raised by Appellant is without merit. It is therefore respectfully requested that the instant appeal be dismissed.

BY THE COURT:

John J. Trucilla, Administrative Judge

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County Pennsylvania
Docket No. 12354-22

In re: Alyssa Moyer

In re: Ashley Moyer

In re: Madison Moyer, a minor

In re: Makayla Moyer, minor

Notice is hereby given that a Petition has been filed in the above named Court by Jarrod Hall and Lisa Hall, requesting an Order to change the names of Alyssa Moyer to Alyssa Marie Hall, Ashley Moyer to Ashley Elizabeth Hall, Madison Moyer to Madison Alexandria Hall and Makayla Moyer to Makayla Arianna Hall.

The Court has fixed the 5th day of December, 2022 at 3:00 p.m. in Courtroom D, Room 214 of the Erie County Courthouse, 140 W. 6th St., Erie, PA 16501 as the time and place for the hearing on said petition, when and where all parties may appear and show cause, if any they have, why the prayer of the petitioner should not be granted.

Oct. 21

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN THAT the shareholders and directors of PDA-in-Liquidation, Inc., a Pennsylvania corporation (the "Corporation"), with a registered address of 8112 Beechtree Lane, Erie, PA 16510, have approved a plan and proposal that the Corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the Corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

KNOX MCLAUGHLIN GORNALL & SENNETT, P.C.

120 West 10th Street
Erie, PA 16501

Attorneys for
PDA-in-Liquidation, Inc.

Oct. 21

DISSOLUTION NOTICE

Notice is hereby given that Roar on the Shore, Inc., a Pennsylvania non-profit corporation, with a registered office address of 2171 W. 38th St., Erie, PA 16508, has passed a resolution to voluntarily dissolve the corporation pursuant to Section 5977 of the Pennsylvania Nonprofit Corporation Law of 1988, as amended, and the corporation is now engaged in the process of winding up of its affairs. Any claims should be sent to: c/o James E. Spoden, Esquire, 100 State Street, Suite 700, Erie, Pennsylvania 16507.

Oct. 21

DISSOLUTION NOTICE

All persons are notified that Vanadium Enterprises Corporation, a Pennsylvania corporation (the "Corporation"), is winding up its affairs in the manner prescribed by §1975 of the Business Corporation Law of 1988, as amended, so that its corporate existence shall cease upon the filing of Articles of Dissolution in the Department of State of the Commonwealth of Pennsylvania. All persons having a claim against the Corporation are required to present their claims against the Corporation in accordance with this notice. All such claims must be presented in writing and contain sufficient information reasonably to inform the Corporation of the identity of the claimant and the substance of the claim. All such claims must be sent to Mindi M. Albert, Esq., Williams Coulson, One Gateway Center, 16th FL, 420 Ft. Duquesne Blvd., Pittsburgh, PA 15222.

Oct. 21

FICTITIOUS NAME NOTICE

Pursuant to Act 295 of December 16, 1982 notice is hereby given of the intention to file with the Secretary of the Commonwealth of Pennsylvania a "Certificate of Carrying On or Conducting Business under an Assumed or Fictitious Name." Said Certificate contains the following information:

FICTITIOUS NAME NOTICE

1. The fictitious name is: ERIE FITNESS NOW.

2. The address of the principal office of the business to be carried on under or through the fictitious name is: 2312 West 15th Street, Erie, PA 16505.

3. The name and address of all persons party to the registration are: IRON OXYGEN OF ERIE LLC, 2312 West 15th Street, Erie, PA 16505.

Elliott J. Ehrenreich, Esq.

PHILLIPS LYTLE LLP

One Canalside
125 Main Street
Buffalo, NY 14203

Oct. 21

INCORPORATION NOTICE

ACF Erie, Inc. has been incorporated under the provisions of the Pennsylvania Nonprofit Corporation Law of 1988.

KNOX, MCLAUGHLIN,

GORNALL & SENNETT, P.C.

120 West Tenth Street
Erie, PA 16501

Oct. 21

INCORPORATION NOTICE

Notice is hereby given that Hamilton Insurance Agency, Inc. has been organized under the Pennsylvania Business Corporation Law of 1988. Articles of incorporation were filed with the Pennsylvania Department of State on October 3, 2022.

Terry R. Heeter
Kooman, Heeter & Gulnac, PC
(814) 226-9100

Oct. 21

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the Orphans' Court Division, of the

Court of Common Pleas of Erie County, Pennsylvania

The following Executors, Administrators, Guardians and Trustees have filed their Accounts in the Office of the Clerk of Records, Register of Wills and Orphans' Court Division and the same will be presented to the Orphans' Court of Erie County at the Court House, City of Erie, on **Wednesday, October 12, 2022** and confirmed Nisi.

November 23, 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>ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
2022			
315	Patricia Magdik aka Patricia Eckard Magdik aka Patricia E. Magdik	Karen Tempalski..... <i>Executrix</i>	David R. Devine, Esq.
316	Carlton D. Heath	Edward D. Heath..... <i>Executor</i>	Terrence P. Cavanaugh, Esq.

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

Oct. 21, 28

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ESTATE NOTICES

Notice is hereby given that in the estates of the decedents set forth below the Register of Wills has granted letters, testamentary or of administration, to the persons named. All persons having claims or demands against said estates are requested to make known the same and all persons indebted to said estates are requested to make payment without delay to the executors or their attorneys named below.

FIRST PUBLICATION

DROPSHO, ROWENE, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Susan M. Denial, c/o Kurt L. Sundberg, Esq., Suite 300, 300 State Street, Erie, PA 16507
Attorney: Kurt L. Sundberg, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

HILL, LAWRENCE E., a/k/a LAWRENCE EMERSON HILL, deceased

Late of Millcreek Township, Pennsylvania
Administratrix: Dawn M. Himes, c/o David W. Bradford, Esq., 731 French Street, Erie, PA 16501
Attorney: David W. Bradford, Esq., 731 French Street, Erie, PA 16501

NYBERG, ROSE MARY, deceased

Late of 1018 Clifton Drive, Erie, PA 16505
Administrator: Gary Nyberg, c/o 502 West Seventh Street, Erie, PA 16502
Attorney: Matthew J. Parini, Esquire, 502 West Seventh Street, Erie, Pennsylvania 16502

SANDSTROM, PAUL HILMER, a/k/a PAUL H. SANDSTROM, deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania
Executor: John C. Sandstrom, 142 Pendula Court, West Chester, PA 19380
Attorney: None

SHERIDAN, DORIS A., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executor: Timothy Patrick Sheridan, 320 Superior Avenue, Erie, PA 16505
Attorney: Michael S. Butler, Esq., Heritage Elder Law, 318 South Main Street, Butler, PA 16001

WELLMAN, CYRUS R., a/k/a CYRUS ROBINSON WELLMAN, deceased

Late of Washington Township, Erie County, Commonwealth of Pennsylvania
Executor: Adam T. Wellman, 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

WYSOCKI, NINA, deceased

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania
Executrix: Carol A. Wysocki, c/o 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415
Attorney: Alan Natalie, Esquire, 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415

SECOND PUBLICATION

BLOOMSTINE, CAROL M., a/k/a CAROLINE M. BLOOMSTINE, deceased

Late of the City of Erie, Erie County, Pennsylvania
Executrix: Beth Dubik, c/o Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507
Attorney: Joseph P. Martone, Esquire, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

BUTRICK, ELIZABETH C., a/k/a ELIZABETH BUTRICK, deceased

Late of Conneaut Township, County of Erie and Commonwealth of Pennsylvania
Co-executors: Gernard D. Rathbun and Kyle J. Rathbun, c/o 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415
Attorney: Alan Natalie, Esquire, 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415

CLISBY, DORIS M., deceased

Late of the Boro of Platea, County of Erie, Commonwealth of Pennsylvania
Executrix: Sally A. Phillips, 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

DEBICKI, PATRICIA A., a/k/a PATRICIA ANN DEBICKI, a/k/a PATRICIA DEBICKI, deceased

Late of the Borough of Lake City, County of Erie, Commonwealth of Pennsylvania
Administrator: Joseph S. Debicki, 3328 Homets Ferry Road, Wyalusing, PA 18853
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

DEIST, JUDITH, deceased

Late of Harborcreek Township, Erie County, PA
Executor: Frederick Gemler, c/o 33 East Main Street, North East, Pennsylvania 16428
Attorney: Robert J. Jeffery, Esq., Knox McLaughling Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

HAROUFF, ALBERT WILLIAM, a/k/a ALBERT W. HAROUFF, a/k/a ALBERT HAROUFF, a/k/a AL HAROUFF, deceased

Late of Lake City Borough, County of Erie, Commonwealth of Pennsylvania
Administratrix: Lou A. Loepp, 59 N. Main Street, Albion, PA 16401
Attorney: None

HARRIS, DIANNE M., a/k/a DIANNE MARIE HARRIS, deceased

Late of Harborcreek Township, County of Erie and Commonwealth of Pennsylvania
Executor: Frederick Kevin Harris
Attorney: James H. Richardson, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

HEINTZEL, JULIA C., deceased

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

HUCKELBERY, JEAN T., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Elizabeth W. Zimmerman, 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

LEWIS, ANGELINE MADELINE, a/k/a ANGELINE G. LEWIS, deceased

Late of the City of Erie, Erie County, Pennsylvania
Executrix: Monica Lewis, c/o Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507
Attorney: Joseph P. Martone, Esquire, Martone & Peasley, 150 West Fifth Street, Erie, Pennsylvania 16507

LIPPHARDT, MARIE, a/k/a MARIE A. LIPPHARDT, deceased

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania
Executrix: Jennifer Lewis, 7633 Wellman Drive, Fairview, PA 16415
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

McCARTY, JUNE M., deceased

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Donald R. McCarty, 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

MERCER, GERALD LEE, deceased

Late of the Borough of Union City, County of Erie, Commonwealth of Pennsylvania
Executrix: Teresa L. Mercer, 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

SANTIAGO, EDITH L., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Carmen M. Borrero, 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

SCHEUER, JAMES T., a/k/a JAMES THOMAS SCHEUER, a/k/a JAMES SCHEUER, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Administratrix: Kathey A. Scheuer, 1717 Woodside Drive, Erie, PA 16505
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

SCOTT-BARBOUR, BETH ANN, a/k/a BETHA. SCOTT-BARBOUR, a/k/a BETH SCOTT-BARBOUR, a/k/a BETH ANN BARBOUR, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Karen Jean Mohny, c/o 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415
Attorney: Alan Natalie, Esquire, 3952 Avonia Road, P.O. Box 9, Fairview, PA 16415

**SLEPPY, RUTH A., a/k/a
RUTH SLEPPY, a/k/a
RUTH ANN SLEPPY,
deceased**

Late of Lawrence Park Township,
County of Erie and Commonwealth
of Pennsylvania
Executrix: Sandra M. McGraw,
c/o 2409 State Street, Suite A, Erie,
PA 16503
Attorney: Michael J. Nies, Esquire,
2409 State Street, Suite A, Erie,
PA 16503

**ZAZADO, ROBERTA L., a/k/a
ROBERTA ZAZADO,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Co-executrices: Patricia Anne
Ortiz and Melissa Woods,
c/o 2409 State Street, Suite A, Erie,
PA 16503
Attorney: Michael J. Nies, Esquire,
2409 State Street, Suite A, Erie,
PA 16503

THIRD PUBLICATION

**BARTLETT, MICHAEL R., a/k/a
MICHAEL BARTLETT,
deceased**

Late of the Township of Millcreek,
County of Erie and State of
Pennsylvania
Executrix: Amelia E. Bartlett,
3351 S. Stafford Street, Arlington,
VA 22206
Attorney: Ronald J. Susmarski,
Esq., 4030 West Lake Road, Erie,
PA 16505

**BEAL, JAN SWANSON, a/k/a
JAN BEAL,
deceased**

Late of McKean Township, County
of Erie and Commonwealth of
Pennsylvania
Executrix: Kathleen J. Beal
Attorney: David J. Rhodes,
Esquire, ELDERKIN LAW FIRM,
456 West 6th Street, Erie, PA
16507

**BENSINK, MATTHEW G.,
deceased**

Late of Venango Township,
County of Erie, Pennsylvania
Administratrix: Nichole Bensink,
c/o Barbara J. Welton, Esquire,
2530 Village Common Drive,
Suite B, Erie, PA 16506
Attorney: Barbara J. Welton,
Esquire, 2530 Village Common
Drive, Suite B, Erie, PA 16506

**CAMP, GERALDINE M., a/k/a
GERALDINE MARIE CAMP,
a/k/a GERALDINE CAMP,
deceased**

Late of the Township of Millcreek,
County of Erie and Commonwealth
of Pennsylvania
Executrix: Aimee A. Gustafson,
c/o James A. Pitonyak, Esquire,
2618 Parade Street, Erie, PA 16504
Attorney: James A. Pitonyak,
Esquire, 2618 Parade Street, Erie,
PA 16504

**CLEM, JUNE MAE, a/k/a
JUNE M. CLEM, a/k/a
JUNE F. CLEM, a/k/a
JUNE KLEM,
deceased**

Late of Springfield Township,
County of Erie and Commonwealth
of Pennsylvania
Executor: Allan C. Clem,
c/o 3952 Avonia Road,
P.O. Box 9, Fairview, PA 16415
Attorney: Alan Natalie, Esquire,
3952 Avonia Road, P.O. Box 9,
Fairview, PA 16415

**HEDDERICK, JEAN LOUISE,
a/k/a JEAN L. HEDDERICK,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Executrix: Kathleen A. Cornell
Attorney: David J. Rhodes,
Esquire, ELDERKIN LAW FIRM,
456 West 6th Street, Erie, PA
16507

**KOVACS, SHIRLEY ANNE, a/k/a
SHIRLEY A. KOVACS,
deceased**

Late of Fulton County, Alpharetta,
Georgia
Executrix: Elaine S. Kovacs,
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

**LAWSON, DEBORA ANN, a/k/a
DEBORA A. LAWSON, a/k/a
DEBORA LAWSON,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Executrix: Ashley Czarnecki,
c/o James A. Pitonyak, Esquire,
2618 Parade Street, Erie, PA 16504
Attorney: James A. Pitonyak,
Esquire, 2618 Parade Street, Erie,
PA 16504

**LEHNER, DAVID A., a/k/a
DAVID ALAN LEHNER, a/k/a
DAVID LEHNER,
deceased**

Late of the Township of Millcreek,
County of Erie, Commonwealth of
Pennsylvania
Executrix: Kathrine Lehner,
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

**McLAREN, JAMES G., a/k/a
JAMES McLAREN, a/k/a
JIM McLAREN,
deceased**

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

**MINADEO, KAREN LEE, a/k/a
KAREN L. MINADEO, a/k/a
KAREN MINADEO,
deceased**

Late of 3808 State Street, City of
Erie, Erie County, Pennsylvania
Executor: Michael A. Minadeo,
c/o 2580 West 8th Street, Erie,
Pennsylvania 16505
Attorney: Ralph R. Riehl, III,
Esquire, 2580 West 8th Street,
Erie, Pennsylvania 16505

**NAGARE, MIYEKO, a/k/a
MIYEKO DOI NAGARE,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Co-executrices: Marilyn L.
Corwin and Karann M. Holman
Attorney: David J. Rhodes,
Esquire, ELDERKIN LAW FIRM,
456 West 6th Street, Erie, PA
16507

**RITCHIE, GERALD T.,
deceased**

Late of the City of Erie, County
of Erie and Commonwealth of
Pennsylvania
Executor: J.W. Alberstadt, Jr.,
c/o 100 State Street, Suite 700,
Erie, Pennsylvania 16507-1459
Attorneys: MacDonald, Illig, Jones
& Britton LLP, 100 State Street,
Suite 700, Erie, Pennsylvania
16507-1459

**STANTON, LORRAINE D.,
deceased**

Late of the City of Erie, County
of Erie, and Commonwealth of
Pennsylvania
Executrix: Dianne L. Stanton,
6163 Firman Road, Erie, PA 16510
Attorney: None

**TREDWAY, LAURIE M.,
deceased**

Late of Fairview Township,
Erie County, Commonwealth of
Pennsylvania
Executor: Philip M. Tredway,
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

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October 21, 2022





— SAVE the DATE —

**Erie County Bar Association's
2022 Annual Membership Meeting**

**Thursday, December 15, 2022
at the Bayfront Convention Center**

Details to come.

ATTENTION ALL ATTORNEYS

Are you or an attorney you know dealing with personal issues related to substance use, depression, anxiety, grief, an eating disorder, gambling, significant stress or other mental health concerns?

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DOJ report explains why jailhouse informant program violated defendants' constitutional rights - A jailhouse informant program in Orange County, California, violated the constitutional rights of criminal defendants because of jailers' involvement, according to a long-awaited report by the U.S. Department of Justice. The DOJ began the probe in December 2016. The report was released Oct. 13, according to a DOJ press release. The report said there is "reasonable cause to believe" the sheriff's department and district attorney's office in Orange County, California, systematically violated defendants' Sixth Amendment right to counsel and their 14th Amendment right to due process. Read more ... <https://www.abajournal.com/web/article/jailhouse-informant-program-violated-defendants-constitutional-rights-justice-department-report-says>

Is forever really forever? Question may be answered in lawsuit over UC Hastings name change - When California legislators in 1878 enacted a statute to name the state's first public law school after a wealthy landowner and state supreme court chief justice, did they consider whether subsequent laws could change the agreement? The question will likely come up in a recent California state court lawsuit filed by six descendants of Serranus Clinton Hastings, who gave the state treasury \$100,000 to start the school. About a decade ago, historians found that Hastings had organized a militia to kill Native Americans living near land he had claimed for himself. In September, California Gov. Gavin Newsom signed a law changing the name to the University of California College of the Law at San Francisco. The 1878 law said the school "should be forever known and designated" as Hastings College of the Law. The lawsuit seeks to keep the law school's name and objects to a Hastings family board seat being removed. An alumni group is also a plaintiff. Read more ... <https://www.abajournal.com/web/article/if-forever-really-forever-in-state-legislation-the-question-may-be-answered-in-lawsuit-over-uc-hastings-name-change>

Pa. federal judge throws out lawsuits against insurers over COVID-19 losses coverage - In concurring with other courts nationwide that found COVID-19 and mandatory shutdowns did not cause physical damage to commercial properties, a Pittsburgh federal judge threw out dozens of cases seeking coverage from Erie Insurance Group and other insurers for losses connected to the pandemic. In an Oct. 14 opinion, U.S. District Court for the Western District of Pennsylvania Judge Mark R. Hornak rejected the businesses' argument that the COVID-19 virus itself was found on surfaces in the early stage of the pandemic and thus, damaged their properties.

8th Circuit upholds food-safety law in suit by pastor who gave bologna sandwiches to homeless people - A pastor and his assistant who were ticketed but not prosecuted for handing out bologna sandwiches to homeless people have lost their First Amendment lawsuit against the city of St. Louis. The 8th U.S. Circuit Court of Appeals at St. Louis ruled Oct. 12 that the city ordinance governing the distribution of "potentially dangerous food" did not violate the plaintiffs' First Amendment rights under the free exercise and free speech clauses. Read more ... <https://www.abajournal.com/web/article/8th-circuit-upholds-food-safety-law-in-suit-by-pastor-who-gave-bologna-sandwiches-to-homeless>

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