



VOL. 105
NO. 4

105
ERIE

JANUARY 28
2022

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, JANUARY 31, 2022

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

TUESDAY, FEBRUARY 1, 2022

WEDNESDAY, FEBRUARY 2, 2022

THURSDAY, FEBRUARY 3, 2022

PBA/ECBA Mock Trial Competition
1:00 and 3:00 p.m.
via Zoom

FRIDAY, FEBRUARY 4, 2022

Bench Bar CLE Subcommittee Meeting
Noon
via Zoom

FRIDAY, FEBRUARY 4, 2022

Live ECBA Lunch-n-Learn Seminar
Title Insurance 101: What is Title Insurance, Deeds and Vesting (Part one 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, FEBRUARY 8, 2022

Family Law Section Meeting
Noon
Judge Walsh's Courtroom

WEDNESDAY, FEBRUARY 9, 2022

Bankruptcy Section Meeting
Noon
ECBA Headquarters in-person (must RSVP)
or via Zoom

FRIDAY, FEBRUARY 11, 2022

Diversity & Inclusion Section
Education Subcommittee Meeting
Noon
via Zoom

WEDNESDAY, FEBRUARY 16, 2022

Workers' Compensation Section Meeting
Noon
ECBA Headquarters in-person (must RSVP)
or via Zoom

FRIDAY, FEBRUARY 18, 2022

Wintertime in the Woods
A socially-distanced, family-friendly event
Asbury Woods Nature Center
4105 Asbury Road, Erie
Click link for details
<https://www.eriebar.com/events/ecba-events/1716-wintertime-in-the-woods>

MONDAY, FEBRUARY 21, 2022

President's Day
ECBA Office Closed
Erie County and Federal Courthouses closed

2022 BOARD OF DIRECTORS

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In Memoriam



Wayne L. Lovercheck

January 26, 1947 - January 7, 2022

Wayne L. Lovercheck, Esquire, age 74, of Erie, passed away Friday, January 7, 2022 at his residence.

He was born in Niskayuna, NY on January 26, 1947, eldest son of the late Charles L. and Leila Miller Lovercheck.

Wayne was a 1964 graduate of Strong Vincent High School, where he was a member of the track and cross country teams and started dating his lifelong partner, Janice. He graduated from Gannon University with Bachelor of Science degree in Business Management. He received his law degree from John Marshall Law School in Chicago, IL. In 1976, he returned to Erie and obtained a Mechanical Engineering degree from Gannon.

He served his country in the United States Naval Reserves and did one year active duty in Da Nang, Vietnam (Aug. 1968-Aug. 1970) doing harbor duty on a tug boat and assisting the Commanding Officer of the Naval Support Facility. On Wayne's return he joined Gamma Sigma Mu Veterans Fraternity at Gannon University.

Wayne was licensed with the Pennsylvania Bar, the Illinois Bar, the Federal Court System and the US Patent and Trademark Office, and was active in the Erie County Bar Association. He practiced in a partnership with his father from 1976 to 2004 at Lovercheck and Lovercheck in Erie. He moved his practice to The Quinn Firm after his father died until 2014. He retired from private practice in 2016. His practice included the areas of patents, trademarks, copyrights, and unfair trade practice.

He was a lifelong member of the First Presbyterian Church of the Covenant, as an Elder and Presbytery representative.

Wayne was part of Koinonia of Erie County and the Kairos Prison Ministry. While lay leader for Koinonia he helped start the Footsteps ministry for teens in Erie and Buffalo and Jamestown, New York. He then brought the Kairos Prison Ministry to Pennsylvania, including Erie County. He served on the international board of Kairos for many years as the Pennsylvania representative and as vice president.

Wayne is survived by his wife of 51 years, Janice Bohlender Lovercheck; a son, Glenn Lovercheck of Erie; a daughter, Kerrie Ellen Lovercheck of New York; a brother, Dale Lovercheck and his wife Susan of Media, PA; a sister, Mary Michalski and her husband Chris of Erie; and many nieces and nephews.

Memorials may be made to the Kairos Prison Ministry and First Church of the Covenant.

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
MOTION COURT DATES FOR JUDGE THOMAS P. AGRESTI
ERIE AND PITTSBURGH DIVISION CASES
FEBRUARY 2022 NOTICE

The following is a list of *February 2022, March 2022, and April 2022* motion court dates and times to be used for the scheduling of motions pursuant to *Local Rule 9013-5(a)* before **Judge Thomas P. Agresti** in the Erie and Pittsburgh Divisions of the Court. The use of these dates for scheduling motions consistent with the requirements of *Local Rule 9013-5(a)* and Judge Agresti's *Procedure B(1)-(3)* summarized below and on Judge Agresti's webpage at: www.pawb.uscourts.gov.

The motions will be heard by the Zoom Video Conference Application. When using the below self-scheduling dates to schedule a matter please include the following Zoom Meeting link in your Notice: <https://www.zoomgov.com/j/16021303488>, or alternatively, to attend and use the following Meeting ID: 160 2130 3488. To join the Zoom hearing please initiate and use the link 15 minutes prior to your scheduled hearing time. All Attorneys and Parties may only appear via the Zoom Video Conference Application and must comply with the Updated Notice of Temporary Modification of Appearance Procedures Before Judge Thomas P. Agresti, as updated on November 22, 2021.

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

SCHEDULE CHAPTERS 13 & 12 MOTIONS ON:

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

Wednesday, February 9, 2022	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Wednesday, March 9, 2022	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
Wednesday, April 6, 2022	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 13 matters
	11:30 a.m.:	Ch. 13 Sale, Financing and Extend/Impose Stay & Ch. 12 matters

SCHEDULE CHAPTERS 11 & 7 MOTIONS ON:

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

Thursday, February 17, 2022	9:30 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Thursday, March 10, 2022	10:00 a.m.:	Open for all Erie & Pittsburgh Ch. 11 matters
Thursday, March 24, 2022	10:30 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters
Thursday, April 14, 2022	11:00 a.m.:	Open for all Erie & Pittsburgh Ch. 7 matters, including all Ch. 7 Motions to Extend/Impose Stay
	11:30 a.m.:	Ch. 11 and 7 Sale Motions at this time, only

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

Jan. 28

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**AMERICAN EXPRESS NATIONAL BANK
v.
BLAINE DURAN and DURAN TRANSFERS INC.**

*CIVIL PROCEDURE / PLEADINGS /
COMPLAINT / PRELIMINARY OBJECTIONS*

An amended complaint is void *ab initio* where neither the filed consent of the adverse party or leave of court to amend is obtained prior to its filing, pursuant to Pennsylvania Rule of Civil Procedure 1033(a), nor is the amended complaint filed within 20 days of service of preliminary objections to the prior complaint, pursuant to Pennsylvania Rule of Civil Procedure 1028(c).

CIVIL PROCEDURE / PLEADINGS / LIBERAL CONSTRUCTION

Court has authority to treat improperly filed amended complaint as the operative complaint in an action in the interests of a just, speedy, and inexpensive determination of the matter where the substantial rights of the parties are not affected pursuant to Pennsylvania Rule of Civil Procedure 126; likewise, the Court is within its discretion to treat preliminary objections to an original complaint as preliminary objections to an amended complaint where the contents of the two pleadings are nearly identical.

CIVIL PROCEDURE / PLEADINGS / PRELIMINARY OBJECTIONS

The plain text of Pennsylvania Rule of Civil Procedure 1019(i) — requiring that a pleader attach a copy of the writing to a pleading where any claim or defense detailed therein is based on that writing, or alternatively, to explain why such writing is not accessible to the pleader — neither requires that the writing be signed nor that it be dated, and the truth and accuracy of said writing cannot be assailed on preliminary objections, particularly where the facts set forth in the pleading are verified as true in accordance with Pennsylvania Rule of Civil Procedure 1024.

COURTS / STARE DECISIS

Unless otherwise inconsistent with higher precedential appellate authority, or absent some other compelling circumstance, a court of common pleas judge should follow the written decision of a colleague on the same bench when based on the same set of facts, because a written opinion addressing the reasons for a decision establishes the law of that judicial district as a matter of stare decisis.

CIVIL PROCEDURE / PLEADINGS / PRELIMINARY OBJECTIONS

In keeping with longstanding precedent within the Sixth Judicial District — and pursuant to Pennsylvania Rule of Civil Procedure 1019(f), requiring that averments of special damages be specifically stated — in a claim for breach of contract where the plaintiff is seeking to recover on a credit card debt, a “defendant is entitled to know the dates on which individual transactions were made, the amounts therefore and the items purchased to be able to answer intelligently and determine what items he can admit and what he must contest.” *Marine Bank v. Orlando*, 25 Pa. D. & C.3d 264, 268 (Erie Co. 1982) (Nygaard, J.).

CONTRACTS / ACCOUNT STATED

In the absence of any Pennsylvania appellate authority to resolve the split among the courts of common pleas to have considered the issue, this Court holds that an account stated cause of action is cognizable in a case alleging a defendant’s failure to pay credit card debts.

*CIVIL PROCEDURE / PLEADINGS / PRELIMINARY OBJECTIONS /
CONTRACTS / ACCOUNT STATED*

The Court declines to extend our holding in *Orlando* — that a plaintiff in a suit for recovery of a credit card debt must detail the individual transactions constituting the alleged debt in its complaint — to a count predicated upon an account stated theory of recovery because *Orlando* did not expressly address such a claim, and because a requirement that a pleader specifically itemize the transactions making up the account in its pleading runs contrary to the gist of the account stated action.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
TRIAL DIVISION – CIVIL
No. 12703 of 2018

Appearances: Jordan W. Felzer, Esq., for the Plaintiff, American Express National Bank
Lloyd Wilson, Esq., for the Plaintiff, American Express National Bank
Guy C. Fustine, Esq., for the Defendants, Blaine Duran and Duran Transfers Inc.
Ashley M. Mulryan, Esq., for the Defendants, Blaine Duran and Duran Transfers Inc.

OPINION OF THE COURT

PICCININI, J., December 23, 2021
Plaintiff, American Express National Bank (“American Express”), brings this action to recover \$104,779.08 in unpaid debt it alleges Defendants, Blaine Duran and Duran Transfer, Inc. (collectively “Duran”), accrued on one of its credit cards. Duran raises Preliminary Objections challenging the sufficiency of the Complaint. For the reasons that follow, the Court exercises its discretion under Pennsylvania Rule of Civil Procedure 126 to treat the Amended Complaint, filed September 7, 2021, as the operative complaint in this action, despite the procedural invalidity of its filing, and furthermore, treats the Preliminary Objections to the Complaint as Preliminary Objections to the Amended Complaint. As to the merits of Duran’s Preliminary Objections, the Court finds that the Amended Complaint comports with Pennsylvania Rule of Civil Procedure 1019(i) and that Count II alleges a legally cognizable and sufficiently specific cause of action for account stated against Duran. However, Count I does not adequately state a claim for special damages arising from the alleged breach of contract pursuant to Pennsylvania Rule of Civil Procedure 1019(f), and as such, the Preliminary Objection as to Count I is sustained.

I. PROCEDURAL HISTORY

The original Complaint in this case was filed on October 22, 2018. The Complaint alleges that American Express provided a line of credit to Duran through an American Express Business Gold Rewards card. Am. Compl., ¶ 4. Specifically, it avers that Duran accepted a written card member agreement, enabling it to make purchases and or receive cash advances, but that despite agreeing to pay for charges incurred on the credit account as they were billed, Duran is currently in default under the terms of the agreement and remains indebted to American Express in the amount of \$104,770.08. Am. Compl., ¶¶ 7, 9-10, 12. Count I of

the Complaint alleges that Duran’s failure and refusal to pay the amount due constitutes a breach of contract. Am. Compl., ¶¶ 13-14. Count II alleges an account stated claim, stating Duran received “monthly statements without giving protest or indication that they were erroneous in any respect...thereby acknowledg[ing] the debt owed to American Express[.]” Am. Compl., ¶ 19.

After the filing of the Complaint, a case management order was issued, although it is unclear what, if any, discovery was actually conducted. In 2019, American Express reinstated the Complaint. In October of 2020, the Complaint was reinstated once again. On February 22, 2021, counsel for American Express contacted the Court, inquiring into the process for filing a “praecipe for trial.”¹ The following day, the Court ordered that a status conference be held.

A status conference was held on April 12, 2021. At the conference, both parties agreed that the matter was not yet ready for trial. Moreover, Duran, now represented by counsel, questioned the failure of American Express to properly serve a 10-day Notice of default judgment and the lack of a written agreement between the parties in support of its underlying claims for recovery. Citing these concerns, Duran made an oral Motion to Dismiss the Complaint. Rather than rule on the oral Motion, the Court instructed Duran to put its Motion in writing if it genuinely believed a legal basis existed to dismiss the Complaint, and permitted American Express to respond to such a motion, if it were filed; alternatively, if no basis for dismissal existed, the Court instructed the parties to engage in discussions about a revised case management order that would set a mutually agreeable timetable for the case going forward.

Although Duran did not ultimately file a written motion, American Express filed a written Response to Defendant’s Motion to Dismiss Complaint on May 4, 2021. American Express, however, never served said response on the Court. Subsequently, on July 12, 2021, Duran filed Preliminary Objections to the Complaint. On July 15, 2021, the Court ordered American Express to respond to the Preliminary Objections and Duran to address in its responding brief the issue of improper service discussed at length by American Express in its Response to Defendant’s Motion to Dismiss Complaint.

American Express filed its response and accompanying brief on July 22, 2021. Duran filed its responding brief in support of its Preliminary Objections on August 11, 2021. Thereafter, on September 7, 2021, without leave of Court, and before the Court ruled on Duran’s Preliminary Objections, American Express filed an Amended Complaint substantively indistinguishable from the Complaint filed in 2018, except for different attached exhibits.

Duran’s Preliminary Objections are now ripe for adjudication, but before turning to the issues raised therein, the Court must consider two threshold procedural questions: whether the original Complaint or the Amended Complaint is currently the operative complaint in this matter, and if it is the Amended Complaint, whether the filing of the Amended Complaint mooted Duran’s Preliminary Objections.

II. VALIDITY AND PROCEDURAL EFFECT OF THE FILING OF THE AMENDED COMPLAINT

Presently before the Court is Duran’s Preliminary Objections to the Complaint filed on October 22, 2018, but as just explained, American Express’s purported filing of an Amended Complaint on September 7, 2021, complicates matters. The body of the Amended Complaint

¹ Erie County Local Rules do not permit parties to set a matter for trial by praecipe. Instead, the rules employ a certification process. See Erie L.R.C.P. 212.1(e).

is identical to that of the original Complaint; the only difference appears to be in the exhibits attached to the pleading. American Express did not seek leave of Court to file the Amended Complaint nor is there any indication in the record that Duran consented to the filing of an amended pleading.

Pennsylvania Rule of Civil Procedure 1033 states that “[a] party, either by filed consent of the adverse party or by leave of court, may at any time change the form of action, add a person as a party, correct the name of a party, or otherwise amend the pleading.” Pa.R.C.P. 1033(a). Thus, in the normal course of litigation, a plaintiff may not properly amend a complaint unless either one of two conditions occur: (1) leave of court is sought and granted, or (2) the adverse party consents to the amendment and proof of the adverse party’s consent is filed on the docket. Neither of those conditions was satisfied here.

Nevertheless, Pennsylvania Rule of Civil Procedure 1028 provides a limited exception to this scheme when preliminary objections are filed whereby “[a] party may file an amended pleading as of course within twenty days after service of a copy of preliminary objections. If a party has filed an amended pleading as of course, the preliminary objections to the original pleading shall be deemed moot.” Pa.R.C.P. 1028(c)(1). Rule 1028 further directs that “[o]bjections to any amended pleading shall be made by filing new preliminary objections.” Pa.R.C.P. 1028(f). As such, a plaintiff has a rule-based right to amend a complaint to which preliminary objections are filed for a period of twenty days after of service of the preliminary objections. In that case, the plaintiff need not obtain leave of court or the filed consent of the parties to amend the complaint, and the objecting party is required to raise any objection it may still have to the amended pleading by filing new preliminary objections.

One explanation for the appearance of the Amended Complaint is that it was intended to respond to Duran’s Preliminary Objections, effectively mooted them by operation of law. But if this were the intent, it seems odd that American Express would take the time to file a response to the Preliminary Objections, only to then later moot the Objections by filing an amended pleading. Whatever the case may be, it is clear that the filing of the Amended Complaint occurred well outside the twenty-day window from the filing of the Objections in which American Express had to file an amended pleading as of right under Rule 1028(c)(1). Thus, because the Amended Complaint was not filed within the period set forth under Rule 1028(c)(1), and because American Express did not follow the procedure in Rule 1033 for amending a pleading, the Amended Complaint was procedurally void *ab initio* when it was filed with the prothonotary on September 7, 2021.

Yet this does not end the inquiry. Pennsylvania Rule of Civil Procedure 126 states that the rules of civil procedure “shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.” Pa.R.C.P. 126. Here, the filing of an amended complaint — particularly one that does not meaningfully alter the nature of the allegations — does not affect the substantial rights of Duran. The statute of limitations has not yet run, and the Court would have been hard-pressed to find any reason to deny a motion seeking leave of court to amend the original complaint had American Express properly sought one under Rule 1033. And if the Court were to declare the Amended Complaint a nullity, American Express would likely seek leave to amend the complaint

to include the updated exhibits anyhow. Simply accepting the Amended Complaint as the operative complaint in this matter therefore promotes the “just, speedy and inexpensive determination of” this action. Pa.R.C.P. 126. Accordingly, the Court treats the Amended Complaint as a properly filed pleading, exercising its discretion under Rule 126.

By the same token, the Court finds that the just, speedy, and inexpensive resolution of this case is best served by treating the Preliminary Objections to the original Complaint as Objections to the Amended Complaint. Neither the substantial rights of American Express nor Duran are affected given that the averments in the Amended Complaint were taken verbatim from the original Complaint. Were the Court to deem the Preliminary Objections moot, there is no reason to believe that Duran would not file new preliminary objections to the Amended Complaint in substantially the same form, with perhaps only minor adjustments to references made concerning the exhibits. As such, demanding strict adherence to Rule 1028(f) by requiring Duran to file new preliminary objections would only serve to delay this litigation further. The Court therefore exercises its discretion under Rule 126 to treat the Preliminary Objections to the original Complaint as Preliminary Objections to the operative Amended Complaint. With these threshold issues resolved, the Court proceeds to consider the merits of Duran’s several Objections.

III. OBJECTION AS TO SERVICE

As previously noted, the Court, in its July 12, 2021, Order directed that Duran brief the issue of service as part of its responding brief. The purpose of this instruction was to respond to American Express’s arguments as set forth in its Response to Defendant’s Motion to Dismiss Complaint of May 4, 2021. However, Duran concedes that this issue is now moot in light of American Express’s July 2, 2021 Notice of Intent to Take Default. Br. in Supp. of Prelim. Obj. to Compl., p. 7. Although the docket does not include such a Notice for the Court’s review, the Court accepts Duran’s assurance that it received a Notice of Intent to Take Default and its withdrawal of any challenge concerning service of a relevant notice or pleading in this case. As such, the Motion to Dismiss raised orally at the April 12, 2021, status conference is denied as moot.

IV. PRELIMINARY OBJECTION AS TO ATTACHMENT OF A SIGNED DOCUMENT

Duran’s first Preliminary Objection relates to both Counts I and II, and concerns what it argues is American Express’s failure to provide the writing on which the claims are based in violation of Pa.R.C.P. 1019(i). Rule 1019(i) states:

When any claim or defense is based upon a writing, the pleader shall attach a copy of the writing, or the material part thereof, but if the writing or copy is not accessible to the pleader, it is sufficient so to state, together with the reason, and to set forth the substance in writing.

Pa.R.C.P. 1019(i). Duran asserts that the Cardholder Agreement attached to the Amended Complaint “is not signed by either Defendant nor does it include the date the agreement commenced[.]” and as such, American Express “has failed to produce a signed contract, or an explanation for why the documentation is missing.” Br. in Supp. of Prelim. Obj., p. 4.

American Express relies on *Discover Bank v. Stucka*, 33 A.3d 82 (Pa. Super. 2011) for

its assertion that the pleading complies with Rule 1019(i). In *Stucka*, the Court explained “[w]here a complaint is based on the failure of a debtor to pay the balance due on a credit card account, it is proper under Rule 1019(i) for the defendant to assert in preliminary objections that the plaintiff failed to produce a cardholder agreement and statement of account.” *Id.* at 87 (citing *Atlantic Credit and Finance, Inc. v. Giuliana*, 829 A.2d 340, 345 (Pa. Super. 2003)). However, the Court held “[w]e do not find persuasive the Stuckas’ argument that the Bank was required to attach a signed document. Neither Rule 1019 or *Atlantic Credit* set forth such a requirement.” *Id.*

Here, as in *Stucka*, the plaintiff attaches a copy of a cardholder agreement it alleges forms the basis for a contractual relationship between the parties, although the agreement is unsigned. As *Stucka* held, however, that fact that the document is unsigned does not doom the pleading under Rule 1019(i). Neither does Rule 1019(i) require that the writing be dated. It simply requires that “the pleader attach a copy of the writing, or the material part thereof,” if “any claim or defense is based upon a writing[.]” Pa.R.C.P. 1019(i). American Express has done so here.

Duran counters that *Stucka* is distinguishable because “[h]ere, Plaintiff fails to produce a true and accurate copy or at least offer an explanation of how the attached copy is a true and accurate copy[.]” observing that the original Complaint exhibited a cardmember agreement from 2011, three years after Duran entered into a relationship with American Express. Br. in Supp. of Prelim. Obj., p. 5. First, it is not clear that the “as of” date of 2011 in the cardholder agreement attached to the original Complaint, or the 2014 “as of” date on the cardholder agreement attached to the Amended Complaint, are indicative of the date when the alleged agreement was entered into. Second, the facts set forth in both the original and Amended Complaint are verified as true and accurate by a custodian of records in accordance with Pennsylvania Rule of Civil Procedure 1024.

Rule 1019(i) itself does not require that the pleader prove the truth and accuracy of the agreement it attaches; the pleader must merely attach the writing it alleges is the basis for its claim or provide an explanation why that cannot be done. Beyond verification, the truth and accuracy of a document goes to its reliability and credibility, evidentiary and factual determinations to be sorted out later in the litigation life cycle. Critically, when considering preliminary objections “all material facts set forth in the challenged pleadings are admitted as true, as well as all inferences reasonably deducible therefrom.” *Feingold v. Hendrzak*, 15 A.3d 937, 941 (Pa. Super. 2011) (citation omitted). In this vein, the Court must presume for purposes of these Preliminary Objections that the attached cardholder agreement is true and accurate as attested to by the custodian of records verifying the Amended Complaint.

Duran further argues that *Stucka* is distinguishable because American Express does not aver that an agreement was submitted to Duran or that Duran agreed to such a contract. However, such a challenge goes not to the legal sufficiency of the pleading under Rule 1019(i), but to the sufficiency of its factual specificity, which the Court addresses separately below. As to legal sufficiency under Rule 1019(i), that Rule does not require that a writing alleged to underlie an action be signed or dated — only that it be attached to the pleading or an explanation be provided as to why it is not. Such a verified writing is attached to the Amended Complaint. Accordingly, the Amended Complaint complies with Rule 1019(i), and Duran’s Preliminary Objection for failure to conform to Rule 1019(i) is overruled.

V. PRELIMINARY OBJECTION AS TO SUFFICIENT SPECIFICITY IN COUNT I

Duran next argues that the averments contained in Count I lack sufficient specificity. “Pennsylvania is a fact-pleading jurisdiction; as such, a complaint must provide notice of the nature of the plaintiff’s claims and also summarize the facts upon which the claims are based.” *Commonwealth by Shapiro v. Golden Gate National Senior Care LLC*, 194 A.3d 1010, 1029 (Pa. 2018) (citation omitted). Rule 1019 encapsulates this theory; its purpose “is to require the pleader to disclose material facts sufficient to notify the adverse party of the claims it will have to defend against.” *Id.* (citations omitted). The pleader, however, “need not cite evidence but only those facts necessary for the defendant to prepare a defense.” *Id.* at 1030 (citation omitted). “To assess whether a claim has been pled with the requisite specificity, the allegations must be viewed in the context of the pleading as a whole.” *Id.* (citation omitted).

Count I alleges a claim for breach of contract. “In a claim for breach of contract, the plaintiff must allege that there was a contract, the defendant breached it, and plaintiff suffered damages from the breach.” *Stucka*, 33 A.3d at 87 (citing *McShea v. City of Philadelphia*, 995 A.2d 334, 340 (Pa. 2010)) (internal quotation marks and brackets omitted). “While not every term of a contract must be stated in complete detail, every element must be specifically pleaded.” *Pennsy Supply, Inc. v. American Ash Recycling Corp. of Pennsylvania*, 895 A.2d 595, 600 (Pa. Super. 2006) (citing *Corestates Bank, N.A. v. Cutillo*, 723 A.2d 1053, 1058 (Pa. Super. 1999)).

Count I asserts that American Express extended credit to Duran by way of an American Express Business Gold Rewards card, provided as Exhibit A. Am. Compl., ¶ 7. It states that the agreement was accepted by Duran, enabling it to make purchases and cash advances. Am. Compl., ¶ 7. It enumerates several material and relevant terms of the agreement, including that Duran agreed to pay all amounts charged, pay finance charges on unpaid balances, pay the minimum amount due by the due date, that American Express could charge late fees and declare the account in default if minimum payments were not timely paid, and that American Express could declare the entire balance due immediately if Duran were in default. Am. Compl., ¶ 8. The Amended Complaint further states that Duran is currently in default under the terms of the agreement and remains indebted to American Express in the amount of \$104,770.08 as reflected in Exhibit B. Am. Compl., ¶¶ 10, 12. Duran contends that such averments are insufficient to put it on proper notice of how to prepare a defense or how to answer the pleading. Br. in Supp. of Prelim. Obj. p. 6.

The Court finds that the basic contractual elements of offer, acceptance, and consideration are adequately pled to show the existence of a contract. The Amended Complaint states that American Express made an offer to extend a line of credit to Duran subject to certain conditions, which Duran accepted. Am. Compl., ¶ 7. Additionally, the Amended Complaint alleges that Duran agreed to those conditions, including the condition that it make timely payments on the minimum amount due, in return for American Express’s promise to make the line of credit available, evincing requisite consideration. Am. Compl., ¶ 7.² The Court further finds that the element of breach of contract is sufficiently pled as the Amended Complaint states that the contract was breached when Duran failed to make necessary

² The classic Holmesian formula for consideration is that “the promise must induce the detriment and the detriment must induce the promise.” *Pennsy Supply*, 895 A.2d at 601 (citations omitted).

minimum payments as required under the cardholder agreement and fell into default. Am. Compl., ¶ 10.

The question of whether damages are sufficiently pled is a more difficult one. The Amended Complaint states that American Express has suffered damages in the amount of \$104,770.08 as a result of the breach, which it claims is the sum of “any and all charges, credits, payments, finance charges and late fees relating to Duran’s...account which was kept in the ordinary course of business and summarized as the ‘previous balance.’” Am. Compl., ¶ 12. Pennsylvania Rule of Civil Procedure 1019(f) requires that “[a]verments of time, place and items of special damage shall be specifically stated.” Pa.R.C.P. 1019(f). “The Pennsylvania Rules of Civil Procedure do not define ‘special damage.’ However, Pennsylvania courts apply ‘special damage’ to mean calculable monetary losses, such as out-of-pocket expenses.” *Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1220 (Pa. Cmwlth. 2018) (*en banc*); see also *Agriss v. Roadway Express, Inc.*, 483 A.2d 456, 474 (Pa. Super. 1984) (equating “special damages” with “concrete economic loss computable in dollars”). Here, the \$104,770.08 sought by American Express fits that description.

To that end, Duran assails the pleading for not including sufficient detail “regarding the transactions supporting the balance[.]” either in the body of the Amended Complaint itself or in the “incomplete account summary” attached as Exhibit B. Br. in Supp. of Prelim. Obj. p. 6. Indeed, Exhibit B includes only a statement of the total amount due, \$104,770.08, and a year-to-date summary of fees and interest from 2018, totaling \$8,931.87. Notably, it does not provide an account history of charges or cash advances made on the credit card or an accounting of any fees or interest accrued on the account other than the \$8,931.87 in fees levied in 2018.

This Court has confronted this issue before. In *Marine Bank v. Orlando*, 25 Pa. D. & C.3d 264 (Erie Co. 1982), Judge Nygaard, then sitting as a member of this Court, opined that under Rule 1019(f), in a case for recovery of credit card debt, a “defendant is entitled to know the dates on which individual transactions were made, the amounts therefore and the items purchased to be able to answer intelligently and determine what items he can admit and what he must contest.” *Id.* at 268. Noting that credit cards have become “a pervasive part of our society[.]” he explained:

if this were an action by the merchant for merchandise sold and delivered, we would require the claim to show the items sold and the dates of sales or services. A third person such as the issuer herein who has paid such bills in the capacity of a contractor with our defendant, and who sues the cardholder, steps to some extent into the shoes of the merchant as respects pleading and proof of his or her case. Plaintiff or anyone in his position at the least must furnish dates of the transactions, amounts and items purchased, so as to enable defendant to prepare his case and to prepare for the trial of the case.

Id. at 266, 268-69. The Court is unaware of any higher precedential authority contrary to Judge Nygaard’s Opinion in *Orlando*. Under such circumstances, this Court is bound as a matter of local stare decisis to apply the *Orlando* rationale in the case *sub judice*. See *Yudacufski v. Commonwealth, Dept. of Transp.*, 454 A.2d 923, 926 (Pa. 1982) (noting it is “well-settled that, absent the most compelling circumstances, a judge should follow the decision of a

colleague on the same court when based on the same set of facts” and that a written court of common pleas decision therefore establishes “the law of that judicial district[.]”); *see also Dibish v. Ameriprise Financial, Inc.*, 134 A.3d 1079, 1093 (Pa. Super. 2016).

Here, just as in *Orlando*, the Amended Complaint does not specifically aver the dates in which the individual transactions were made, the amounts of those transactions, and the items purchased in those transactions. As to these facts, Duran is without sufficient notice to prepare a defense or answer the Amended Complaint.³ Thus, the alleged damages in the amount of \$104,770.08 are not pled with the specificity required under Rule 1019(f), and the Preliminary Objection as to Count I is therefore sustained.

VI. PRELIMINARY OBJECTION AS TO SUFFICIENT SPECIFICITY IN COUNT II

Duran lodges a similar challenge against Count II. Count II states a claim for account stated. “An account stated is a manifestation of assent by debtor and creditor to a stated sum as an accurate computation of an amount due the creditor.” RESTATEMENT (SECOND) OF CONTRACTS, § 282(a). “The idea behind an action upon account stated is that a preceding contract has been discharged and merged into a stated account which is based upon the earlier contract.” *Rush’s Service Center Inc. v. Genareo*, 10 Pa. D. & C.4th 445, 447 (Lawrence Co. 1991). “It is an agreement to, or acquiescence in, the correctness of the account owed, so that in proving the account stated, it is not necessary to show the nature of the original transaction, or indebtedness, or to set forth the items entering into the account.” *Chongqing Kangning Bioengineering Co., Ltd., v. Conrex Pharmaceutical Corporation*, 2021 WL 1529331, *3 (Pa. Super. 2021) (unpublished) (quoting *David v. Veitscher Magnesitwerke Actien Gesellschaft*, 35 A.2d 346, 349 (Pa. 1944)). The effect of an account stated is that:

the amount or balance so agreed upon constitutes a new and independent cause of action, superseding and merging the antecedent causes of action represented by the particular items. It is a liquidated debt, as binding as if evidenced by a note, bill or bond. Though there may be no express promise to pay, yet from the very fact of stating the account the law raises a promise as obligatory as if expressed in writing, to which the same legal incidents attach as if a note or bill were given for the balance.

Id. at *4 (citation omitted).

Duran argues an “account stated theory is incompatible with credit card cases when acquiescence is based solely on silence due to the rapidly fluid and complex nature of credit card transactions[.]” citing *Capital One Bank (USA) NA v. Clevenshine*, 7 Pa. D. & C. 5th 153 (Centre Co. 2009) for its persuasive value. Br. Supp. of Prelim. Obj., p. 6. The Court in *Clevenshine* reasoned that “[a]n account stated theory is not appropriate in a credit card account case” because “[a]n account stated is more appropriately pled in a situation in which two equal, sophisticated parties have an ongoing business relationship.” *Id.* at 157.

³ American Express responds that it has provided counsel for Duran with “every Statement of Account issued in this Account[.]” Pl.’s Resp. to Def.’s Prelim Obj., ¶ 20. Although American Express’s form-over-substance argument is not lost on the Court, the fact remains that the Court’s consideration of these Objections is limited to the averments as set forth in the Amended Complaint and any attachments incorporated by reference therein, not evidence that may be available outside the four corners of the challenged pleadings. Furthermore, if this is true, then American Express should have no trouble detailing that transaction history in a subsequent amended complaint.

Noting “something more than mere acquiescence by failing to take exception to a series of statements of account received in the mail is required to create an account stated[.]” the Court observed:

An account stated theory may have been appropriate when credit card issuers gave cardholders fixed interest rates and charged very few fees. With the proliferation of credit cards over the past two decades, however, interest rates have varied and fees have increased in number and severity. It is unreasonable to expect the average debtor to understand the changing terms of a customer agreement such that he or she can object to any invoice received in a timely manner. For many, the first and only time they will consider what is in the “fine print” is when they fall behind on payments and find themselves in a position like the one in which defendant now finds herself.

Id. at 157-58.

While other courts of common pleas have followed this approach, it has not been accepted uniformly across this Commonwealth. For example, in *Calvary SPV I, LLC v. Michaels*, 2018 WL 7501275 (Lawrence Co. 2018), the Court — while recognizing other courts of common pleas have held an account stated theory of recovery to be unavailable in credit card cases — declined to adopt such a limitation. *Id.* at *3. The *Michaels* Court reasoned:

If a plaintiff chooses to proceed under account stated, they are disposing of the complex terms of the contract originally underlying the debt, and instead proceeding on the basis of a simpler relationship whereby the creditor lends to the debtor and the debtor takes action on the account to reimburse the creditor Such a case may be shown by payments made on the account, or other actions evidencing acceptance of the debt by the debtor. A plaintiff must show a sufficient amount of action by their debtor to prove their case. No controlling precedent has ever disallowed the account stated theory of recovery from proceeding in credit card cases.

Id.

There does not appear to be any Pennsylvania appellate precedent directly on point to resolve this split among the courts of common pleas. Neither is the Court aware of any written opinion from the Sixth Judicial District to address this issue nor do the parties cite to any cases arising out of Erie County which may constitute the law of the Sixth Judicial District on this point. In what appears to be matter of first impression in Erie County, and having considered the merits of the respective rationales as detailed in the opinions of our sister courts of common pleas across the Commonwealth, the Court adopts the approach taken by Lawrence County Court of Common Pleas in *Michaels* and holds that an account stated cause of action is cognizable in a case alleging a defendant’s failure to pay credit card debts.

As the Superior Court recently explained, “an ‘account stated’ is just a variety of contract... between debtors and creditors.” *Chongqing Kangning*, 2021 WL 1529331, at *4 (citation omitted). Just as plaintiffs may be able to recover under quasi-contractual causes of action, such as quantum meruit or unjust enrichment — even when they cannot successfully make out a claim for breach of contract — so may a credit card company alternatively seek to

recover under the elements of an account stated theory, just as would any other creditor filing suit to recover against a debtor. Indeed, there is nothing inherent in the nature of a credit card account that is necessarily incompatible with the elements of an account stated cause of action.

Clevestine's concern that "[i]t is unreasonable to expect the average debtor to understand the changing terms of a customer agreement such that he or she can object to any invoice received in a timely manner" does not support a categorical bar precluding a certain type of creditors (*i.e.*, a credit card company) from asserting a particular cause of action (*i.e.*, an account stated claim). Rather, whether a credit card company can adequately plead or prove an account stated claim will depend upon the particular facts of each case. It may be in the mine-run of cases that a credit card company will be unable to ultimately prove a debtor's assent to the account given that the mere "acquiescence in the correctness of the items of an account is not conclusively established by its retention by the debtor." *Pierce v. Pierce*, 48 A. 689, 691 (Pa. 1901). But a credit card company, like any plaintiff, should, at the very least, be given an opportunity to make its case.

Furthermore, the soundness of this approach is confirmed by the number of decisions from other jurisdictions recognizing account stated claims in the context of credit card accounts. *See, e.g., Portfolio Recovery Associates, LLC v. Sanders*, 462 P.3d 263 (Or. 2020) (*en banc*) (considering claim of account stated brought by assignee of alleged credit card debt against cardholder); *CACH, LLC v. Moore*, 133 N.E.3d 661, 665-66 (Ill. App. 2019) (holding "[i]t is axiomatic that an account stated for a delinquent credit card account could include late-payment fees and interest if the cardholder agreed, through the cardholder agreement, to pay such fees and interest."); *American Express Centurion Bank v. Scheer*, 913 N.W.2d 489 (Neb. App. 2018) (holding debtor liable to creditor for three credit card debts under creditor's account stated claim where debtor did not object to monthly invoices.); *Bushnell v. Portfolio Recovery Associates, LLC*, 255 So.3d 473, 477 (Fla. App. 2018) (noting that because "the amount due here is based on the debtor's failure to pay under the credit card contract...[t]he credit card contract and the account stated cause of action are therefore inextricably intertwined such that the account stated cause of action is an action with respect to the contract") (internal quotation marks and emphasis omitted); *Hadsell v. Mandarich Law Group, LLP*, 2013 WL 1386299, *3 (S.D. Cal. 2013) (applying California law) (noting "Federal courts in California have rejected the notion that an action for unpaid credit card debt must be for a breach of an original credit card agreement rather than for an account stated.") (citation and internal quotation marks omitted); *Capital One Bank (USA), N.A. v. Denboer*, 791 N.W.2d 264, 275 (Iowa App. 2010) (holding "account stated is a potentially valid claim for creditors seeking to collect a credit card debt"); *Busch v. Hudson & Keyse, LLC*, 312 S.W.3d 294, 298 (Tex. App. 2010) (noting "account stated is a proper cause of action for a credit card collection suit.").

Having rejected Duran's argument that an account stated claim is inapplicable to credit card debt-collection actions, the Court must still consider whether the Amended Complaint nonetheless adequately pleads the facts essential to that cause of action. "The necessary averments in a complaint based upon an account stated is that there had been a running account, that a balance remains due upon that account, that the account has been rendered unto the defendant, that the defendant has assented to the account and a copy of said account is attached to the complaint." *Genareo*, 10 Pa. D. & C.4th at 447 (citations omitted). "The complaint need

not set forth the nature of the original transaction" and "[t]he party relying upon the account stated need not individually set forth the items of which the account consist. That is to say that plaintiff is not required to itemize the account." *Id.* at 447-48 (citations omitted).

Duran argues that American Express's account stated theory is inadequately based solely on "(1) its supposition that Defendants received its statements and (2) Defendants' silence." Br. in Supp. of Prelim. Obj., p. 7. American Express responds that Duran "was mailed monthly statements showing all transactions on the account," which it contends "is more than mere 'acquiescence' to the charges on the account when the debtor has received the statement showing the charges, and thereafter makes payment on the account, even if not in full." Br. in Supp. of Pl.'s Resp. to Def.s' Prelim Obj., p. 5.

Count II alleges that "American Express provided credit to Duran...by way of an American Express Business Gold Rewards" at Duran's request and that Duran "agreed to pay for charges incurred on the credit as they were billed by American Express. Am. Compl., ¶ 17. It further states that at the time of default, the total amount remaining outstanding on the account was \$104,770.08 as reflected in Exhibit B. Am. Compl., ¶ 18. It alleges that Duran received monthly statements "without giving protest or indication that they were erroneous in any respect...[and] thereby acknowledged that the debt owed to American Express, as set forth in the monthly statement, is true and correct." Am. Compl. ¶ 19. Finally, it claims that although demand has been made upon Duran for payment of the balance, it has "failed and refuses to pay the same." Am. Compl. ¶ 20.

The first element of an account stated claim is satisfied as the Amended Complaint alleges that there was, in fact, a running account. Am. Compl., ¶ 17. Second, the Amended Complaint states that a balance of \$104,770.08 remains due on the account. Am. Compl., ¶ 18. Third, it alleges that the account was rendered unto Duran by virtue of its receipt of monthly statements and the demand made unto it for payment of the balance. Am. Compl., ¶¶ 19-20. Fourth, the Amended Complaint adequately alleges that Duran has assented to the monthly statements by not "giving protest or indication that they were erroneous[.]" Am. Compl. ¶ 19. While acquiescence alone may not be enough to conclusively establish assent, admitting as true all inferences reasonably deducible from the facts alleged in the Amended Complaint, Duran did more than silently acquiesce in the account, providing "direct and unconditional" assent by acknowledging the debt owed but refusing to pay it. *Pierce*, 48 A. at 691; Am. Compl. ¶ 20. To the extent that Duran disagrees with that version of events it may say so in its answer to the pleading and procure evidence in discovery that refutes American Express's characterization of the facts. As to the fifth and final element, a copy of the account and the balance owed is provided in Exhibit B. This is sufficient to plead a cause of action for account stated.

Unlike the breach of contract claim alleged Count I, American Express need only state the precise total amount due on the account in order to satisfy Rule 1019(f)'s requirement that special damages be specifically stated, which it does as \$104,770.08. Am. Compl., ¶¶ 20-21; *see also Genareo*, 10 Pa. D. & C.4th at 448 (noting that the pleader is not required to itemize the transactions conducted in an account stated claim). This is because "the amount or balance so agreed upon constitutes a new and independent cause of action, superseding and merging the antecedent causes of action represented by the particular items[.]" and thus, "it is not necessary to show the nature of the original transaction, or indebtedness, or

to set forth the items entering into the account.” *Chongqing Kangning*, 2021 WL 1529331, at *3-4 (citations omitted).

Moreover, *Orlando* did not consider whether its rationale applied with equal force in the context of an account stated cause of action, and while its reasoning appears harmonious with principles underlying a breach of contract claim, its emphasis on itemization of individual transactions appears inconsistent with the basic premise of an account stated theory, which supersedes “the antecedent causes of action represented by the particular items.” *Id.* at *4 (citation omitted). As such, *Orlando* does not control the outcome of this particular Objection. Because the Amended Complaint states with specificity the total amount due on the account — the only amount relevant for purposes of an account stated claim — it sufficiently pleads specific damages under Rule 1019(f). For the foregoing reasons, the Preliminary Objection as to sufficient specificity in Count II is overruled.

* * * * *

In sum, the Court treats the filing of the Amended Complaint as the operative complaint, and additionally treats the Preliminary Objections to the Complaint as Preliminary Objections to the Amended Complaint, pursuant to its authority under Pa.R.C.P. 126. As to the merits of those Objections, the Amended Complaint complies with Rule 1019(i) because it attaches a verified, written cardholder agreement, and neither the text of Rule 1019(i) nor the case law construing it imposes a requirement that the agreement be signed or dated. *Stucka*, 33 A.3d at 87. However, the Amended Complaint is insufficiently specific as to Count I because it does not adequately detail the individual transactions constituting the account, the specific amounts assignable to each transaction, and the items purchased in those transactions, such that Duran may “be able to answer intelligently and determine what items he can admit and what he must contest.” *Orlando*, 25 Pa. D. & C.3d at 268. As to specificity in Count II, an account stated cause of action is cognizable in a case alleging a defendant’s failure to pay credit card debts, and the Amended Complaint properly states such a cause of action. Accordingly, the Preliminary Objection as to inadequate specificity in Count I is sustained, and the Preliminary Objections for failure to attach a signed writing and for inadequate specificity in Count II are overruled. American Express shall have 20 days from the date of the Order accompanying this Opinion to file a second amended complaint curing the defect in Count I.

It is so ordered.

BY THE COURT

/s/ **MARSHALL J. PICCININI, JUDGE**

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CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania. In re Change of Name of Elyse Isabella Fisher to Elyse Isabella Niedomys. Notice is hereby given that, on January 13, 2022, the Petition of Elyse Isabella Fisher was filed in the Erie County Court of Common Pleas, requesting an order to change the name of Elyse Isabella Fisher to Elyse Isabella Niedomys. The Court has fixed the day of March 2, 2022 at 9:15 a.m. in Courtroom G, Room 222, of the Erie County Courthouse, Erie, Pennsylvania as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the request of the Petition should not be granted.

Jan. 28

DISSOLUTION NOTICE

Notice is hereby given that Alan Builders Inc., a Pennsylvania corporation with a registered office at 2008 E. Lawn Pkwy., Erie, PA 16510, has passed a resolution to voluntarily dissolve the corporation pursuant to Section 1975 of the Pennsylvania Business 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 S. Craig Shamburg, Esquire, 100 State Street, Suite 700, Erie, Pennsylvania 16507.

Jan. 28

DISSOLUTION NOTICE

Notice is hereby given that Redinger Realty Inc., a Pennsylvania corporation with a registered office at 1533 W. 38th Street, Erie, PA 16508, has passed a resolution to voluntarily dissolve the corporation pursuant to Section 1975 of the Pennsylvania Business 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 S. Craig Shamburg, Esquire, 100 State Street, Suite 700, Erie, Pennsylvania 16507.

Jan. 28

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

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on November 15, 2021 for Lionheart Performance at 1502 Pasadena Drive, Erie, PA 16505. The name and address of each individual interested in the business is Brandon Matthew Linhart at 1502 Pasadena Drive, Erie, PA 16505. This was filed in accordance with 54 Pa.C.S. 311.417.

Jan. 28

LEGAL NOTICE**IN THE GENERAL COURT OF JUSTICE****DISTRICT COURT DIVISION**

FILE NO: 18 JT 220

STATE OF NORTH CAROLINA FORSYTH COUNTY**IN THE MATTER OF:****KING KY'JHAUN DESMOND****LA'VRON NOBLE**

DOB: 11-25-2011

NOTICE OF SERVICE OF**PROCESS BY PUBLICATION**

TO: DESMOND JOHNSON, Father of King Noble, a male child born in Erie Co., PA.

TAKE NOTICE that a Motion to Terminate Parental Rights seeking relief against you has been filed in the above-entitled action. The child named above was adjudicated abused, neglected, and dependent on 02-01-2019. The nature of the relief being sought is the permanent and irrevocable termination of your parental rights to this child pursuant to NCGS §7B-1102 and a Motion filed by the Forsyth County DSS on 06-16-2021.

YOU ARE REQUIRED to file an Answer to the Motion to Terminate Parental Rights within thirty (30) days

after the first publication of this notice.

If you fail to make a defense to the Motion to Terminate Parental Rights on or before **FEBRUARY 14, 2022** or fail to attend the hearing on the Motion for Termination, the Movant (Forsyth County Department of Social Services) will request the Court terminate your parental rights in and to the minor child King Noble.

If you do not file an Answer, contact your lawyer, and attend the hearing, the Movant will proceed with the hearing as indicated below and your parental rights to King Noble will be terminated.

The hearing regarding the termination of parental rights of Desmond Johnson is scheduled on **March 21, 2022 at 10:00 a.m. in Courtroom 4-J of the Forsyth County Courthouse, 200 N Main St., Winston-Salem, NC 27101.**

This the 6th day of January, 2022

By: Melissa Starr Livesay,
Forsyth Co. Attorney's Office
741 Highland Avenue
Winston-Salem, NC 27101

Jan. 14, 21, 28

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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, January 12, 2022** and confirmed Nisi.

February 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>2022 ESTATE</u>	<u>ACCOUNTANT</u>	<u>ATTORNEY</u>
9 Cynthia L. Carpenter	Steven Carpenter	Melissa L. Larese, Esq. Administrator
10 Shirley A. Yeager	Loren E. Yeager	Colleen R. Stumpf, Esq. Executrix

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

Jan. 21, 22

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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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

**ADAMS, MARY E.,
deceased**

Late of Millcreek Township, Erie County
Co-executrices: Connie L. Small and Susan M. LaBruzzo
Attorney: Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**ALDRICH, BETTY JANE, a/k/a
BETTY J. ALDRICH,
deceased**

Late of the City of Erie, Commonwealth of Pennsylvania
Executrix: Linda K. Aldrich, c/o Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509
Attorney: Richard A. Vendetti, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, PA 16509

**BUCHANAN, WILSON, a/k/a
WILSON W. BUCHANAN,
deceased**

Late of the City of Erie, Erie County, Pennsylvania
Co-executors: James K. Buchanan and Glenn D. Buchanan, 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

**CONNORS, NORMA J., a/k/a
NORMA JEAN CONNORS, a/k/a
NORMA JEANNE HOTCHKISS,
deceased**

Late of the Borough of Albion, County of Erie, Commonwealth of Pennsylvania
Co-executors: Gary L. Connors, 4871 Watson Road, Erie, PA 16505 and Kathleen M. Bartko, 89 South Main Street, Albion, PA 16401
Attorney: John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**FLETCHER, IRENE V., a/k/a
IRENE SOETY FLETCHER,
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Co-executrices: Tracey Groger and Roxanne Walker
Attorney: David J. Rhodes, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

**HRINKO, CHARLES, JR.,
deceased**

Late of the Township of Greene, County of Erie, Commonwealth of Pennsylvania
Executor: Bradley J. Hrinko, 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

**LAW, JOHN H.,
deceased**

Late of McKean Township, County of Erie, Commonwealth of Pennsylvania
Co-executrices: Dorothy L. Hanna and Patricia Joan Baney, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**LAW, SARA LEE, a/k/a
SALLIE H. LAW,
deceased**

Late of McKean Township, County of Erie, Commonwealth of Pennsylvania
Co-executrices: Dorothy L. Hanna and Patricia Joan Baney, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508
Attorney: Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506-4508

**LOZOWSKI, MARTIN,
deceased**

Late of the Township of McKean, County of Erie, Commonwealth of Pennsylvania
Administratrix: Sheila Lozowski, c/o 337 West 10th Street, Erie, PA 16502
Attorneys: THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

**LYDIC, NANCY M.,
deceased**

Late of Summit Township, County of Erie, Commonwealth of Pennsylvania
Executor: James M. Waddell, 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

**McCALEB, RAE H.,
deceased**

Late of the Township of Fairview, Erie County, Pennsylvania
Executrix: Denise A. Brown, 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

MIMS, TYRONE ISAAC, JR., a/k/a TYRONE ISAAC MIMS, a/k/a TYRONE I. MIMS, JR., a/k/a TYRONE I. MIMS, a/k/a TYRONE MIMS, deceased

Late of Millcreek Township, County of Erie and Commonwealth of Pennsylvania
Administratrix: Rebecca L. Lyons, c/o 504 State Street, Suite 300, Erie, PA 16501
Attorney: Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

REHM, KENNETH E., deceased

Late of the Township of Millcreek, County of Erie, Pennsylvania
Executrix: Deborah A. Rogers, 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

SIDELINGER, DAVID E., a/k/a DAVID SIDELINGER, deceased

Late of the City of Corry, County of Erie, Commonwealth of Pennsylvania
Administratrix: Melanie L. Knowlton, 8835 Franklin Center Road, Cranesville, PA 16410
Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

SONGER, MARY C., deceased

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania
Executor: Michael J. Songer, 10145 Wendover Drive, Vienna, Virginia 22181
Attorney: None

WARNER, MARGARET, a/k/a MINNIE WARNER, a/k/a MARGARET M. WARNER, deceased

Late of the City of Erie
Co-executors: Jeffrey Warner, 3101 McClelland Avenue, Erie, PA 16510 and Loretta Tech, 1820 East 33rd Street, Erie, PA 16510
Attorney: David J. Mack, Esquire, 510 Parade Street, Erie, PA 16507

SECOND PUBLICATION

BROWN, MARY M., a/k/a MARY MADELINE BROWN, a/k/a MARY BROWN, deceased

Late of the Township of Girard, County of Erie, Commonwealth of Pennsylvania
Executrix: Leanne Marie Fox, 33 Hemlock Street, Indiana, PA 15701
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

BYRD, HAROLD, deceased

Late of the City of Erie, County of Erie, and Commonwealth of Pennsylvania
Administrator: Norman A. Stark, c/o 300 State Street, Suite 300, Erie, PA 16507
Attorney: Norman A. Stark, Esquire, Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

DeDAD, JULIA S., deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executor: Nicholas J. DeDad, 1003 Hartt Rd., Erie, PA 16505
Attorney: None

DURCI, DAVID E., deceased

Late of LeBoeuf Township, County of Erie, Commonwealth of Pennsylvania
Administrator: Shaun B. Durci, 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

FISKE, CAROL L., a/k/a CAROL FISKE, deceased

Late of Erie County, Pennsylvania
Executor: Dana J. Fiske, 10651 Lake Pleasant Road, Waterford, PA 16441
Attorney: William T. Morton, Esquire, 2225 Colonial Ave., Suite 206, Erie, PA 16506

FOY, KENNETH E., a/k/a KENNETH EDWARD FOY, a/k/a KENNETH FOY, deceased

Late of the Township of Franklin, County of Erie, Commonwealth of Pennsylvania
Executrix: Denise M. Snyder, 13471 Kline Road, Edinboro, Pennsylvania 16412
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

JOHNSON, WILLIAM MARK, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Co-executors: Nancy Dolak, 2744 West 34th Street, Erie, PA 16506 and Mark Johnson, 12351 Culbertson Drive, Edinboro, PA 16412
Attorney: Glenn S. Sinko, Esquire, Sinko Zimmerman, LLC, Suite 200, 310 Seven Fields Blvd., Seven Fields, PA 16046

LEWIS, JEFFREY W., deceased

Late of North East Twp., Erie County, Pennsylvania
Executrix: Linda L. Lewis, 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

MANTI, NANCY J., a/k/a NANCY MANTI, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Laura Savelli
Attorney: James H. Richardson, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

MICHALEGKO, DAVID, deceased

Late of the Township of Millcreek, Erie County, Pennsylvania
Executrix: Joan Todd, 2818 Arcadia Avenue, Erie, PA 16506-2110
Attorney: Gary J. Shapira, Esquire, 118 West Forty-Second Street, Erie, PA 16508

OLSON, DONALD CHESTER, a/k/a DONALD C. OLSON, deceased

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

POTTER, PAMELA J., deceased

Late of 1108 Fair Avenue, Harborcreek Township, Erie County, Pennsylvania
Executor: David E. Kress, c/o 2580 West 8th Street, Erie, Pennsylvania 16505
Attorney: Ralph R. Riehl, III, Esquire, 2580 West 8th Street, Erie, Pennsylvania 16505

SAVELLI, KENNETH GERALD, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executrix: Laura Savelli
Attorney: James H. Richardson, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

WELCH, DONALD J., deceased

Late of the City of Erie, County of Erie, Pennsylvania
Executor: Brian Scott Welch, c/o 502 Parade Street, Erie, PA 16507
Attorney: Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

WISNIEWSKI, MARY J., deceased

Late of the City of Erie, Erie County
Co-executors: Barbara Ann Parker and Gary A. Wisniewski
Attorney: Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

THIRD PUBLICATION

BERQUIST, ARNOLD E., a/k/a ARNOLD BERQUIST, deceased

Late of Fairview Township, Erie County, Pennsylvania
Executrix: Anne M. Shore, 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

BLAIR, MICHAEL O., a/k/a MICHAEL BLAIR, a/k/a MICHAEL OSCAR BLAIR, deceased

Late of Greenfield Township, County of Erie
Executor: Liane B. Blair, c/o John Mir, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506
Attorney: John Mir, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506

CONLEY, BEVERLY D., a/k/a BEVERLY DIANE CONLEY, a/k/a BEVERLY CONLEY, deceased

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania
Executor: Jack Edkin, 2905 Oakwood Street, Erie, PA 16508
Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

COOK, PATRICIA A., deceased

Late of Harborcreek Township, Erie County, Erie, PA
Executrix: Roxanne M. Cook, 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

ENGLISH, WALLACE L., a/k/a WALLACE LAVERN ENGLISH, a/k/a WALLACE ENGLISH, deceased

Late of the Township of Springfield, County of Erie, Commonwealth of Pennsylvania
Administratrix: Loreen E. Lasher, 4299 Steinberg Road, West Springfield, PA 16443
Attorney: John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

MARSDEN, JOHN R., SR., deceased

Late of the City of Erie, Erie County, Commonwealth of Pennsylvania
Co-executors: John R. Marsden, Jr. and Kelly L. Marsden, 1103 Powell Ave., Erie, PA 16505
Attorney: None

OLSZEWSKI, EDWARD JAMES, a/k/a EDWARD J. OLSZEWSKI, a/k/a EDWARD OLSZEWSKI, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Joseph Olszewski, 3308 Auburn St., Erie, PA 16508
Attorney: None

PATTISON, MARY ANN HART, deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Thomas E. Kuhn, 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

RAPP, JANET E., deceased

Late of Lawrence Park Township, County of Erie, Commonwealth of Pennsylvania
Executor: Joseph A. Rapp, 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

ROBINSON, RICHARD K., a/k/a RICHARD KARL ROBINSON, deceased

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania
Executrix: Alice Randall, 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

WITKOWSKI, WILLIAM C., a/k/a WILLIAM CHESTER WITKOWSKI, deceased

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania
Executor: Jean M. Witkowski, 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

ZINGELEWICZ, ADELINE R., deceased

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania
Executor: Stephen Zinglewicz, 710 Pin Oak Drive, Erie, Pennsylvania 16504
Attorney: None

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

BRENDAN P. SALA814-451-0641
731 French Street(f) 814-453-7700
Erie, PA 16501 bsala@salawpa.com

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Bundle up and enjoy winter with your colleagues, spouses, families and guests hosted by the ECBA!

Wintertime in the Woods!

**Friday, February 18th from 5:00 to 8:00 p.m.
Asbury Woods Nature Center, 4105 Asbury Road**

A socially-distanced evening including:

- Maple Syrup Tour at 6:00 p.m.; Owl Prowl Guided Tour at 7:00 p.m.;
- Tuscan Bean with Sausage Chowder/Cornbread and Roasted Tomato Soup/Grilled Cheese Snack Packs by Make it Fabulous;
- S'mores Kits by the fireplace;
- Complimentary cocktails, Irish coffee, regular coffee, hot chocolate and handwarmers!

Face masks required.

Cost is \$40 per member/\$75 per couple/\$95 per family of 3 or more.

**RSVP required by February 11th with payment at
<https://www.eriebar.com/make-a-payment>**

Questions? Contact Julie Kresge, jskresge@eriebar.com or 814/459-3111.

January 28, 2022

Title Insurance 101



Seminar:

This four-part series will describe the basics of title insurance beginning with the title searching process, including obtaining tax certs and lien letters and ending with the final title policy.

Speaker:



Judy Nemeth, Agency Manager, Old Republic National Title, started her title career in 1989 working at a large national title insurance and appraisal management company. She was the director of

client relations at the time of her departure. Having opened and operated a successful title agency for others, Ms. Nemeth moved on to establish her own title insurance agency Timber Lake Recordings, which she owned and operated for more than 10 years. Currently, Ms. Nemeth is an agency manager sharing her years of extensive and varied experience in support of Old Republic Agents.

You may attend one or a combination of all four seminars — which build on each other, but can be taken individually. Each seminar has been approved for 1 hour Substantive CLE credit.

Friday, February 4, 2022

What is Title Insurance, Deeds and Vesting

The Will J. Schaaf & Mary B. Schaaf Education Center,
429 West 6th Street, Erie, PA 16507 or **via Zoom**

Registration: 11:45 a.m.; **Seminar:** Noon - 1:00 p.m.
Cost: \$47.00 (ECBA Members and their paraprofessional staff);
\$60.00 (Non-members)

Thursday, March 3, 2022

Types of Liens, Judgments, Taxes, Searches

The Will J. Schaaf & Mary B. Schaaf Education Center,
429 West 6th Street, Erie, PA 16507 or **via Zoom**

Registration: 11:45 a.m.; **Seminar:** Noon - 1:00 p.m.
Cost: \$47.00 (ECBA Members and their paraprofessional staff);
\$60.00 (Non-members)

Thursday, April 7, 2022

The Title Commitment

The Will J. Schaaf & Mary B. Schaaf Education Center,
429 West 6th Street, Erie, PA 16507 or **via Zoom**

Registration: 11:45 a.m.; **Seminar:** Noon - 1:00 p.m.
Cost: \$47.00 (ECBA Members and their paraprofessional staff);
\$60.00 (Non-members)

Thursday, May 5, 2022

Clearing Title, Settlement and Title Policies

The Will J. Schaaf & Mary B. Schaaf Education Center,
429 West 6th Street, Erie, PA 16507 or **via Zoom**

Registration: 11:45 a.m.; **Seminar:** Noon - 1:00 p.m.
Cost: \$47.00 (ECBA Members and their paraprofessional staff);
\$60.00 (Non-members)

FOR MORE INFORMATION AND TO REGISTER, VISIT:
<https://www.eriebar.com/events/public-registration/1751>

UPCOMING SEMINARS:

- **Thursday, March 31, 2022: *The Burned Out Lawyer: Recognition and Prevention Strategies in the COVID-19 World***
- **Tuesday, May 10, 2022: *Law Day***
- **Tuesday, June 28, 2022: *Criminal Law Update + Ethics***

Geisinger Health denies it violated federal antitrust laws and affected professional salaries, in class action - Geisinger Health has denied it violated federal anti-trust laws as alleged in a class action lawsuit against itself and Evangelical Community Hospital, which claimed the Pennsylvania hospitals engaged in a secret “no-poach agreement” that suppressed professional mobility and salaries in Central Pennsylvania. “This class action challenges an illegal agreement between two competitors, Geisinger and Evangelical, not to recruit (or “poach”) each other’s physicians, nurses, psychologists, therapists and other health care professional.” the suit says. Read more ... <https://pennrecord.com/stories/618772310-geisinger-health-denies-it-violated-federal-antitrust-laws-and-affected-professional-salaries-in-class-action>

Defendants should get initial appearance before judge within 24 hours, report says -

How long can a person be held in jail before seeing a judge or an attorney? The U.S. Supreme Court has never answered that question, which means that some arrestees are thrust into a “terrifying procedural limbo,” according to a study on the “initial appearance crisis.” A “dismal patchwork of procedural rules” govern initial appearances, depending on the state. Four states require initial appearances within 24 hours of arrest, while 12 states require the appearances within two to seven days. But more than 30 states have no clear deadlines, requiring only that the initial appearance happen “without unnecessary delay,” “as soon as practicable” or “within a reasonable time.” Delayed appearances may lead to longer pretrial detention, loss of housing and income, coerced confessions, harm to families, trauma from incarceration, and guilty pleas entered without a lawyer, the report said. Read more ... <https://www.abajournal.com/news/article/defendants-should-get-initial-appearance-before-judge-within-24-hours-report-says>

Coin operators? - Scott + Scott filed a securities class action last week in California Central District Court against EthereumMax, its co-founders, and its celebrity promoters, including Kim Kardashian and Floyd Mayweather. The lawsuit, which centers on EMAX Tokens, accuses the defendants of engaging in a scheme to misleadingly promote and sell the cryptocurrency through social media endorsements. Counsel have not yet appeared for the defendants. The case is 2:22-cv-00163, *Huegerich v. Gentile et al.*

Masked margins? - Retail mortgage lender LoanDepot and its top executives were slapped with a derivative shareholder complaint Friday in California Central District Court. The suit, filed by Bragar Eigel & Squire and Hynes & Hernandez on behalf of Haydon Modglin, accuses the defendants of failing to disclose to investors that sales margins had declined substantially when LoanDepot went public in February of 2021. Counsel have not yet appeared for the defendants. The case is 2:22-cv-00462, *Modglin v. Hsieh et al.*

ALI’s Consumer Contracts Restatement may come up for approval vote this year, despite increasing concerns - While the ALI publishes the Restatement of Torts and other projects that aim to serve as summaries of certain areas of law that judges can use, some have accused the group of straying from that goal by trying to create law instead of summarize it. Read more ... <https://pennrecord.com/stories/618772321-ali-s-consumer-contracts-restatement-may-come-up-for-approval-vote-this-year-despite-increasing-concerns>

BUSINESS
PARTNERS



LAWPAY:

<https://lawpay.com/member-programs/erie-county-bar>



Velocity Network:

<https://www.velocity.net/>



NFP Structured Settlements:

<https://nfpstructures.com/pdf/nfp-brochure.pdf>



Northwest Bank:

<https://www.northwest.bank/>



Maloney, Reed, Scarpitti & Co.:

<https://www.maloneyreedscarpittiandco.com/>



Thomson Reuters:

<https://www.thomsonreuters.com/en.html>

