

Erie County Legal Journal

May 7, 2021

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Commonwealth v. Dumas

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, MAY 10, 2021

AKT 5K Run/Walk Committee Meeting
Noon
via Zoom

WEDNESDAY, MAY 12, 2021

Law Day
11:30 a.m. - 2:00 p.m.
via Zoom

*Registration and additional information can be found
at www.eriebar.com/events/public-registration/1634*

THURSDAY, MAY 13, 2021

Diversity and Inclusion Division
Education Subcommittee Meeting
Noon
via Zoom

TUESDAY, MAY 18, 2021

Family Law Section Meeting
Noon
via Zoom

WEDNESDAY, MAY 19, 2021

Women's Division Meeting
Noon
via Zoom

THURSDAY, MAY 20, 2021

Live ECBA Seminar
Digital Forensics and the Practice of Law
View Avinash Srinivasan, Steven Bergin and
Timothy Bremer via Zoom Conferencing at
The Will J. Schaaf & Mary B. Schaaf Education Center
or via Zoom
11:45 a.m. - Registration
Noon - 1:00 p.m. - Seminar
\$47 (ECBA members/their non-attorney staff)
\$60 (non-members)
1 hour substantive

SATURDAY, MAY 22, 2021

18th Annual Attorneys & Kids Together 5K Run/Walk
*Registration and additional information can be found at
<https://www.eriebar.com/events/ecba-events/1647-18th-annual-attorneys-kids-together-5k-runwalk>*

MONDAY, MAY 24, 2021

ECBA Board of Directors Meeting
Noon
via Zoom

TUESDAY, MAY 25, 2021

Solo/Small Firm Division Meeting
Noon
via Zoom



Erie County Bar
Association



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To view PBI seminars visit the events calendar
on the ECBA website
<https://www.eriebar.com/public-calendar>

2021 BOARD OF DIRECTORS

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INTEREST IN APPOINTMENT OF COUNCIL FOR INCAPACITATED PERSONS/ALLEGED INCAPACITATED PERSON

The Erie County Court of Common Pleas is looking for any person(s) interested in an appointment to Orphans' Court matters pertaining to incapacitated persons/alleged incapacitated persons.

Please direct all letters of interest to Judge Elizabeth K. Kelly, Erie County Courthouse, 140 West Sixth Street, Room 227, Erie, PA 16501, (814) 451-6363.

May 7

OFFICE BUILDING FOR RENT

150 West Fifth St. (across from Court House), \$1,500 per month includes 4 offices, staff work areas, conference & waiting room, kitchen area, 3 rest rooms and partially furnished. Includes parking, w/s, plowing, landscape and phone/intercom system. Approximately 3,000 sf. Call Colleen McCarthy 814-566-8023.

May 7, 21 and June 4, 18 and July 2, 16, 30



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The Erie County Bar Association is hosting Law Day 2021 featuring keynote speaker, Amy Walter. The Law Day 2021 theme is The 19th Amendment Then and Now: Lessons for the 21st Century. In 2020, the United States commemorated the centennial of the transformative constitutional amendment guaranteeing that the right of citizens to vote would not be denied or abridged by the United States or any state on account of sex. American women fought for, and won, the vote through their voice and action.

LAW DAY, MAY 12, 2021

11:30 a.m. - 12:15 p.m.

Students from local universities and high schools will have the opportunity to participate in a Question/Answer format program with Ms. Walter. Information has been distributed to Erie County universities and high schools. Contact Julie S. Kresge at jskresge@eriebar.com if you know of a class that would like to participate.

12:15 - 12:30 p.m.

Student contest winners are announced. View our sponsors online.

12:30 - 1:30 p.m.

Keynote Speaker, Ms. Walter presents The 19th Amendment Then and Now: Lessons for the 21st Century. CLE credit (1 substantive) is available for attorneys. Students can also attend the Law Day 2021 program with sponsor underwriting through the Erie County Law Foundation, a 501(c)(3) organization, \$100.00 per class.

1:30 - 2:00 p.m.

The Erie County Bar Association is honored to recognize Law Day 2021 Award recipients for their outstanding service to the Erie community:

Att. Gary J. Shapira, Chancellor of the Bar Award; **Sandra Brydon Smith**, Liberty Bell Award; and **Att. Gerald J. Vilella**, Pro Bono Award.

STUDENT OPPORTUNITIES

Students can participate in either a drawing (Kindergarten and Grades 1 - 5) or essay (Grades 6 - 12) contest. Information can be found online at www.eriebar.com. The due date for entry submission is April 16, 2021. Sponsor underwriting is welcome through the Erie County Law Foundation, a 501(c)(3) organization, \$100 per contest.

REGISTRATION and ADDITIONAL INFORMATION

Register online at www.eriebar.com/events/public-registration/1634

For additional information, contact the Erie County Bar Association, Julie S. Kresge, Executive Director, at jskresge@eriebar.com.

LAW DAY 2021 KEYNOTE SPEAKER AMY WALTER



For more than 20 years, Amy Walter has built a reputation as an accurate, objective, and insightful political analyst with unparalleled access to campaign insiders and decision-makers. Ms. Walter is national editor of *The Cook Political Report* and a frequent on-air analyst. She appears weekly on "Politics Monday" on the PBS NewsHour and hosts WNYC's nationally syndicated public radio news program, "The Takeaway Fridays." In addition, she is a regular Sunday panelist on NBC's "Meet the Press" and CBS's "Face the Nation" and appears frequently on "Special Report with Bret Baier" on FOX. She is the former political director of ABC News and the former editor-in-chief of *The Hotline*. Named one of the "Top 50 Journalists" by *Washingtonian* magazine, Walter was dubbed one of the most powerful people in politics by *George* magazine.

COMMONWEALTH OF PENNSYLVANIA

v.

GUY BRADLEY DUMAS

CRIMINAL LAW / TRIAL PROCEDURE / SENTENCING AND PUNISHMENT

Statute that allowed the trial court to determine whether the Commonwealth had proved by clear and convincing evidence that defendant was a sexually violent predator (SVP), and thus subject to enhanced sentencing, was unconstitutional, and defendant's judgment of sentence, to the extent it required him to register as an SVP for life, was illegal; registration requirements under the Sexual Offender Registration and Notification Act (SORNA) constituted a form of criminal punishment, and thus, facts leading to registration requirements had to be found by a fact-finder chosen by the defendant, be it a judge or jury, beyond a reasonable doubt.

CRIMINAL LAW / POST-CONVICTION RELIEF ACT

The timeliness requirements of the PCRA are jurisdictional in nature and, accordingly, a PCRA court cannot hear untimely petitions.

CRIMINAL LAW / POST-CONVICTION RELIEF ACT

A court may not address the merits of the issues raised if the Post-Conviction Relief Act (PCRA) petition was not timely filed.

CRIMINAL LAW / POST-CONVICTION RELIEF ACT

Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final ... Despite this strict requirement, however, there are three codified exceptions that allow a court to hear an untimely PCRA petition: (i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of the Commonwealth or the Constitution or laws of the United States; (ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or (iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

CRIMINAL LAW / POST-CONVICTION RELIEF ACT

The newly discovered facts exception, under Post Conviction Relief Act (PCRA), relates to whether a court has jurisdiction to consider an untimely petition. The newly discovered facts exception to the time bar under the PCRA does not require a merits analysis. A petitioner satisfies the newly discovered facts exception to the time bar under PCRA when the petitioner pleads and proves that (1) the facts upon which the claim is predicated were unknown and (2) could not have been ascertained by the exercise of due diligence. In determination of whether newly discovered facts exception applies to allow a court jurisdiction to consider an untimely PCRA petition, due diligence requires reasonable efforts by a petitioner, based on the particular circumstances, to uncover facts that may support a claim for collateral relief, but does not require perfect vigilance or punctilious care.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA
No. CR 2884 – 2016

Appearances: William J. Hathaway, Esq. appeared as PCRA counsel for Guy Bradley Dumas
Elizabeth A. Hirz, First Assistant District Attorney appeared on behalf of
Commonwealth

1925(a) OPINION

Domitrovich, J.,

August 28, 2020

This case concerns a Motion for Post-Conviction Collateral Relief [hereinafter “PCRA Petition”] filed by Guy Bradley Dumas [hereinafter “Petitioner”] on July 8, 2019. Petitioner did not timely file his PCRA Petition, however, nor did he provide sufficient evidence to support any exception to the PCRA timeliness requirements to grant this Trial Court jurisdiction to review the merits of his PCRA Petition. After reviewing Petitioner’s claims, Petitioner’s court-appointed PCRA Counsel’s “No-Merit” letters, Commonwealth’s responses to these letters, and the entire factual record, this Trial Court determined a hearing on the instant PCRA Petition was not warranted. After twice issuing Petitioner a Notice of Intent to Dismiss his PCRA Petition, and receiving no objections from Petitioner in response, this Trial Court dismissed Petitioner’s PCRA Petition on April 28, 2020.

The procedural history of this case is as follows: On November 2, 2016, Petitioner pled guilty before this Trial Court to six separate crimes: 1) Rape of a Child, 2) Involuntary Deviate Sexual Intercourse, 3) Aggravated Indecent Assault of a Child, 4) Endangering Welfare of Children, 5) Corruption of Minors, and 6) Indecent Assault of a Person Less Than 13 Years of Age. Petitioner was represented throughout this plea proceeding by Alan J. Natalie, Esq. Appellant filed a *pro se* Motion to Withdraw Guilty Plea on November 17, 2016; however, Petitioner verbally withdrew his Motion during his sentencing hearing on February 28, 2017. This Trial Court then sentenced Petitioner to thirty-eight (38) to seventy-six (76) years incarceration. This Trial Court also entered an Order classifying Petitioner as a “Sexually Violent Predator” (“SVP”) and requiring him to register as a Sexual Offender for life.

Petitioner filed a Motion for Post-Sentence Relief on March 10, 2017. This Trial Court denied Petitioner’s Motion on March 21, 2017. Petitioner then filed a Notice of Appeal with the Pennsylvania Superior Court on March 31, 2017, and this Trial Court issued Petitioner a Pa.R.A.P. 1925(b) Order on April 3, 2017. Petitioner filed his 1925(b) Concise Statement of Matters Complained of on Appeal on April 6, 2017.

On January 12, 2018, the Pennsylvania Superior Court issued a non-precedential memorandum affirming Petitioner’s sentence. *See Commonwealth v. Dumas*, No. 516 WDA 2017 (Pa. Super. Ct., Jan. 12, 2018).¹ However, because the Pennsylvania Superior Court, during the pendency of Petitioner’s appeal, held that allowing a judge to make SVP determinations requiring lifetime registration based on clear and convincing evidence was unconstitutional, the Superior Court remanded Petitioner’s case to this Trial Court to issue Petitioner proper registration notice. *See Commonwealth v. Butler*, 173 A.3d 1212 (Pa. Super. 2017), *rev’d on appeal*, 226 A.3d 972 (Pa. 2020). On March 5, 2018, this Trial Court held a remand hearing and issued Petitioner proper notice to register as a sexual offender for life

¹ Despite this appeal, Petitioner claimed in his PCRA Petition that no direct appeal had ever been filed in his case.

pursuant to his plea to three separate Tier-III sexual offenses.

Petitioner filed the instant PCRA Petition on July 8, 2019. On July 10, 2019, this Trial Court appointed William J. Hathaway, Esq. [hereinafter PCRA Counsel], to represent Petitioner during this proceeding. After reviewing Petitioner's claims, PCRA Counsel filed a "No-Merit" letter with this Trial Court on August 5, 2019 as well as a Motion to Withdraw as Counsel. *See Commonwealth v. Turner*, 544 A.2d 927 (Pa. 1988); *Pennsylvania v. Finley*, 481 U.S. 551 (1987). On September 26, 2019, the Commonwealth filed a response concurring with PCRA Counsel's assessment of this PCRA Petition. On November 14, 2019, this Trial Court ordered PCRA Counsel to re-evaluate this PCRA Petition, specifically Petitioner's two stated exceptions to the PCRA timeliness requirement. On December 10, 2019, PCRA Counsel filed a supplemental "No Merit" letter with this Trial Court and again requested leave to withdraw as Petitioner's counsel. The Commonwealth filed a response concurring with PCRA Counsel's supplemental "No Merit" letter on January 22, 2020.

On March 12, 2020, this Trial Court issued a Notice of Intent to Dismiss Petitioner's PCRA Petition and granted PCRA Counsel's Motion to Withdraw as Counsel. This Trial Court instructed Petitioner that he may file objections to this Notice of Intent to Dismiss. On April 2, 2020, this Trial Court issued a second Notice of Intent to Dismiss after receiving correspondence from Petitioner alleging he did not receive this Trial Court's initial Notice. This Trial Court also granted Petitioner additional time to file objections. After giving Petitioner well over twenty days to file objections and having received none, this Trial Court issued an Opinion and Order dismissing the instant PCRA Petition on April 28, 2020.

On July 2, 2020, Petitioner filed Notice of Appeal with the Pennsylvania Superior Court. This Trial Court issued a Rule 1925(b) Order to Petitioner on July 7, 2020. Petitioner filed his Concise Statement of Matters Complained of on Appeal on August 13, 2020.

Petitioner's Concise Statement of Matters Complained of on Appeal addresses several claims of ineffectiveness of Petitioner's trial counsel prior to Petitioner pleading guilty on November 2, 2016. The issues raised by Petitioner center largely around Petitioner's alleged mental incompetence prior to and during his plea, and his trial counsel's ineffectiveness for not recognizing and asserting Petitioner's incompetency. Petitioner raised the issue of his mental competency in his initial PCRA Petition; however, this Trial Court must first address the timeliness of the instant PCRA Petition.

"The timeliness requirements of the PCRA are jurisdictional in nature and, accordingly, a PCRA court cannot hear untimely petitions." *Commonwealth v. Sanchez*, 204 A.3d 524, 526 (Pa. Super. 2019). "A court may not address the merits of the issues raised if the Post Conviction Relief Act (PCRA) petition was not timely filed." *Commonwealth v. Whiteman*, 204 A.3d 448, 450 (Pa. Super. 2019).

Title 42 Pa.C.S. § 9545(b)(1), which governs the timely filing of PCRA petitions, states in relevant part: "Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final ..." Despite this strict requirement, however, there are three codified exceptions that allow a court to hear an untimely PCRA petition: (i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of the Commonwealth or the Constitution or laws of the United States; (ii) the facts upon which the claim is predicated were unknown to the petitioner and

could not have been ascertained by the exercise of due diligence; or (iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.” 42 Pa.C.S. §§ 9545(b)(1)(i)-(iii).

In the instant case, Petitioner’s judgment of sentence was affirmed by the Pennsylvania Superior Court on January 12, 2018. Petitioner did not file for allowance of appeal in the Pennsylvania Supreme Court meaning Petitioner’s sentence became final on February 12, 2018.² See 42 Pa.C.S. § 9545(b)(3) (“For purposes of this subchapter, a judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.”). Petitioner filed the instant PCRA Petition on July 8, 2019, almost seventeen months after judgment of his sentence became final. Therefore, this PCRA Petition was, in fact, untimely.

Despite this untimeliness, however, Petitioner cited two of the three exceptions to the timeliness requirement so that this Trial Court would still consider the merits of his PCRA Petition. Petitioner’s first claim fell under the governmental interference exception to timeliness: “The Public Defender of Erie County and the Common Pleas Court impeded my right to Mental Health Court [*sic*]. In fact, I was denied any psychiatric and/or psychology services. As well as a Mental Health Review [*sic*]. Until I reached the state where I was deemed seriously mentally ill.” PCRA Petition, July 7, 2019, at 3. Petitioner’s claim here is that his case not being adjudicated in mental health court impeded his ability to timely file his PCRA Petition. As this Trial Court stated in its Opinion and Order dismissing this PCRA Petition, “Petitioner fails to state any meritorious reason for said claims, and, therefore, this claim is without merit.” See Opinion and Order, Docket No. 2884-2016, at 5. Petitioner provides no support for his claim of a right to proceed before a mental health court, and clearly no automatic right attaches based on Petitioner’s charges. Moreover, Petitioner does not state with any specificity how any of the actions of this Trial Court or his trial counsel prevented Petitioner from filing a PCRA claim based on this supposed right.³

Petitioner’s second cited exception came under the “previously unknown facts” exception: “I had a Right [*sic*] to have my case heard before a Mental Health Court. Due to my serious mental illness diagnosis.” PCRA Petition, July 7, 2018, at 3. Again, Petitioner claims a right of access to a Mental Health Court but does not state any basis for this right. “Petitioner makes a bald assertion as to access to Mental Health Court. Petitioner has failed to state any meritorious reason for this exception to the PCRA timeliness requirement.” Furthermore, Petitioner does not state when he discovered this right or how this information could not have been obtained by the exercise of due diligence. See *Commonwealth v. Hart*, 199 A.3d 475 (Pa. Super. 2018).

As this Trial Court explained in both its initial Intent to Dismiss and revised Intent to Dismiss, as well as this Trial Court’s final Opinion and Order, Petitioner did not state any

² The 30-day period for allowance of appeal in the Pennsylvania Supreme Court expired on February 11, 2018, which was a Sunday.

³ This Trial Court further notes for purposes of the governmental interference exception, “claims relating to ineffectiveness of counsel for failing to raise certain issues do not qualify under the government interference exception to the timeliness requirement of the Post Conviction Relief Act (PCRA) due to the specific PCRA provision which states the term “government officials” does not include defense counsel. *Commonwealth v. Abu-Jamal*, 833 A.2d 719, 724-25 (Pa. Super. 2003).

grounds upon which this Trial Court could consider his untimely PCRA Petition. Petitioner did not establish by a preponderance of the evidence either of the exceptions he asserted to an untimely PCRA petition, which deprived this Trial Court of jurisdiction to consider the merits of Petitioner's claims.

This same absence of jurisdiction is also present regarding the claims contained in Petitioner's Concise Statement of Matters Complained of on Appeal. Petitioner alleges various ineffective assistance of counsel claims and suggests a potential involuntary plea claim; however, just as this Trial Court could not consider the merits of the claims raised in the instant PCRA Petition, this Trial Court may not consider the merits of Petitioner's Concise Statement claims, either. They relate solely to Petitioner's issues with his trial counsel and this Trial Court's adjudication of Petitioner, and absent an exception to the timeliness requirement, may not be considered if filed in an untimely PCRA Petition. Since Petitioner's PCRA Petition was untimely, and Petitioner did not credibly allege any exception to the timeliness requirement, this Trial Court has no jurisdiction to evaluate the merits of any of Petitioner's PCRA claims.

BY THE COURT

/s/ Stephanie Domitrovich, Judge

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

COMMONWEALTH OF PENNSYLVANIA

v.

GUY BRADLEY DUMAS, Appellant

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 671 WDA 2020

Appeal from the PCRA Order Entered April 28, 2020

In the Court of Common Pleas of Erie County Criminal Division at No(s):

CP-25-CR-0002884-2016

BEFORE: STABILE, J., KUNSELMAN, J., and COLINS, J.*

MEMORANDUM BY COLINS, J.:

FILED APRIL 30, 2021

Appellant, Guy Bradley Dumas, appeals, *pro se*, from the order dismissing his first petition filed pursuant to the Post Conviction Relief Act (“PCRA”).¹ We affirm.

On November 2, 2016, Appellant entered a guilty plea to rape of a child, involuntary deviate sexual intercourse, aggravated indecent assault of a child, endangering the welfare of children, corruption of minors, and indecent assault of a person less than thirteen years of age.² Appellant filed a *pro se* motion to withdraw his guilty plea on November 16, 2016; however, Appellant orally withdrew the motion at his February 28, 2017 sentencing hearing. On that same date, the trial court sentenced Appellant to an aggregate sentence of 38 to 76 years’ imprisonment. The trial court also ordered Appellant to register for life and classified him, by stipulation of the parties, as a sexually violent predator (“SVP”) pursuant to the Sex Offender Registration and Notification Act (“SORNA”).³ Appellant filed a motion for reconsideration, which the trial court denied.

Appellant then filed a timely appeal from his sentence. In this Court, Appellant’s counsel filed a petition to withdraw as counsel and an *Anders* brief⁴ asserting that counsel had identified no non-frivolous appellate issues. On January 12, 2018, we issued a memorandum decision concluding that counsel had complied with the procedural requirements for withdrawal and that the discretionary sentencing issue raised in the *Anders* brief was frivolous. *Commonwealth v. Dumas*, No. 516 WDA 2017, unpublished memorandum at 4-6 (Pa. Super. filed January 12, 2018). However, as part of our independent review of the record, we determined that Appellant’s SVP designation was unconstitutional under existing case law. *Id.* at 6-8. We therefore denied counsel’s petition to withdrawal, vacated Appellant’s SVP designation and SORNA registration, remanded for the issuance of appropriate notice of Appellant’s lifetime registration requirements, and affirmed the judgment of sentence in all other respects. *Id.* at 8.

* Retired Senior Judge assigned to the Superior Court.

¹ 42 Pa.C.S. §§ 9541-9546.

² 18 Pa.C.S. §§ 3121(c), 3123(b), 3125(b), 4304(a), 6301(a)(1)(ii), 3126(a)(7), respectively.

³ 42 Pa.C.S. §§ 9799.10-9799.42. SORNA was amended and enlarged by legislative enactment subsequent to Appellant’s convictions.

⁴ See *Anders v. California*, 386 U.S. 738 (1967).

On March 5, 2018, the trial court held a remand hearing where it issued Appellant notice of his lifetime registration requirements. Appellant made no further filings in this case until July 8, 2019, when he filed the instant *pro se* PCRA petition. The PCRA court appointed counsel for Appellant, who subsequently filed a petition to withdraw and a no-merit letter on August 5, 2019. The PCRA court ordered counsel to reevaluate Appellant's claimed exceptions to the PCRA's one-year time bar, and on December 10, 2019, PCRA counsel filed a second no-merit letter in which he concluded that Appellant's claimed timeliness exceptions lacked merit.

On March 12, 2020, the PCRA court issued a notice of intent to dismiss the PCRA petition without a hearing pursuant to Rule of Criminal Procedure 907 and granted PCRA counsel's petition to withdraw. On April 2, 2020, the PCRA court issued a second notice of intent to dismiss after receiving correspondence from Appellant in which he asserted that he had not received the first notice. The PCRA court permitted Appellant an additional 20 days to respond to the notice. After receiving no response to its second notice, the PCRA court entered an order dismissing Appellant's PCRA petition on April 28, 2020.⁵

Appellant filed his notice of appeal from the PCRA court's order on July 2, 2020, more than 30 days beyond the May 28, 2020 deadline for the filing of the appeal. *See* Pa.R.A.P. 903(a). Appellant enclosed a letter with his notice of appeal, in which he indicated that he had been prevented from filing a timely appeal due to the COVID-19 pandemic.⁶ On August 10, 2020, this Court issued a rule to show cause, directing Appellant to explain why the instant appeal should not be quashed as untimely. Appellant filed a response stating that, in light of the COVID-19 pandemic, the State Correctional Institute ("SCI") at Houtzdale, where Appellant is housed, was placed under lockdown from March 31, 2020 until June 22, 2020, and he was prevented from drafting his notice of appeal because he did not have access to the library or law library during this period. Response to Rule to Show Cause, 8/24/20. Appellant averred that, after the lockdown ended, he immediately requested an appointment at the law library, which took 7 to 10 days to process, and once he had access to the law library, he promptly drafted and sent in his notice of appeal. *Id.* Upon receipt of Appellant's response, this Court entered an order discharging the rule but stating that the merits panel may revisit the issue of whether Appellant's notice of appeal was timely filed.

We treat Appellant's response to the rule to show cause as a request for *nunc pro tunc* relief to permit his late filing of his notice of appeal. *See Towey v. Lebow*, 980 A.2d 142, 144 (Pa. Super. 2009) (providing that both trial and appellate courts have jurisdiction to determine whether an appeal *nunc pro tunc* should be granted). We note that, while our Supreme Court declared a general, statewide judicial emergency relating to the COVID-19 pandemic, this

⁵ Pursuant to our Supreme Court's orders related to the COVID-19 statewide judicial emergency, the time computation for all legal filings required to be filed between March 19 and April 30, 2020 was suspended and these filings would be deemed timely if filed by May 1, 2020. *In re: General Statewide Judicial Emergency*, 229 A.3d 229, 230 (Pa. filed April 1, 2020) (*per curiam*). The suspension of deadlines was later extended through May 11, 2020. *In re: General Statewide Judicial Emergency*, 230 A.3d 1015, 1017 (Pa. filed April 28, 2020) (*per curiam*). Therefore, the PCRA court should have granted Appellant until May 11, 2020 to file his response to the Rule 907 notice. In light of our determination that the PCRA court correctly concluded that Appellant did not plead an exception to the PCRA's one-year time bar in his petition, however, Appellant suffered no prejudice from his inability to file a response to the Rule 907 notice.

⁶ The PCRA court did not take action on Appellant's letter but instead ordered Appellant to file a concise statement of errors complained of on appeal pursuant to Pa.R.A.P. 1925(b). Appellant filed his concise statement on August 13, 2020, and the PCRA court issued an opinion on August 28, 2020.

expired on June 1, 2020 and the deadline for filing the notice of appeal was not affected by the Court's suspension of time calculation for court filings required to be filed between March 19 and May 8, 2020.⁷

"Even when a party has filed an untimely notice of appeal, however, appellate courts may grant a party equitable relief in the form of an appeal *nunc pro tunc* in certain extraordinary circumstances," including non-negligent circumstances related to the appellant or his counsel. *Criss v. Wise*, 781 A.2d 1156, 1159 (Pa. 2001). To file an appeal *nunc pro tunc* on these grounds, the appellant must show that (1) the appeal was filed late as a result of non-negligent circumstances relating to the appellant or his counsel, (2) the notice of appeal was filed shortly after the expiration date, and (3) the appellee was not prejudiced by the delay. *Id.*; *see also Vietri ex rel. Vietri v. Delaware Valley High School*, 63 A.3d 1281, 1284 (Pa. Super. 2013).

Here, Appellant has asserted that he was prevented from filing his notice of appeal in a timely manner due to "unforeseeable and unavoidable events," namely the COVID-19 pandemic and the ensuing lockdown at SCI Houtzdale to prevent the spread of COVID-19 in the facility. *Criss*, 781 A.2d at 1160. Appellant's notice of appeal was dated June 29, 2020 — seven days after the lockdown ended which is in accordance with his explanation that it took seven to ten days to get an appointment to the law library — and the notice was received by the trial court for filing on July 2, 2020, ten days after the lockdown ended. Finally, we note that the Commonwealth has not disputed the non-negligent circumstances related to Appellant's late filing of the notice of appeal nor has it alleged that it suffered any prejudice therefrom. Therefore, we conclude that Appellant was entitled to *nunc pro tunc* relief and proceed to a review of his appeal from the dismissal of his PCRA petition.

We review the denial of a PCRA petition to determine whether the record supports the PCRA court's findings and whether its decision is free of legal error. *Commonwealth v. Brown*, 196 A.3d 130, 150 (Pa. 2018). In Appellant's first issue, he argues that the PCRA court erred in dismissing his PCRA petition as untimely. The PCRA's time limitations implicate our jurisdiction and may not be altered or disregarded in order to address the underlying merits of a claim. *Commonwealth v. Laboy*, 230 A.3d 1134, 1137 (Pa. Super. 2020). The PCRA provides that "[a]ny petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final." 42 Pa.C.S. § 9545(b)(1).

A PCRA petition may be filed beyond the one-year time period only if the petitioner pleads and proves one of the following three exceptions:

- (i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States;
- (ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or
- (iii) the right asserted is a constitutional right that was recognized by the Supreme Court

⁷ *See In re: General Statewide Judicial Emergency*, 234 A.3d 408 (Pa. filed May 27, 2020) (*per curiam*) (terminating general, statewide judicial emergency on June 1, 2020); *In re: General Statewide Judicial Emergency*, 230 A.3d at 1017.

of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

Id.; *Commonwealth v. Anderson*, 234 A.3d 735, 738 (Pa. Super. 2020). Any petition attempting to invoke these exceptions “shall be filed within one year of the date the claim could have been presented.” 42 Pa.C.S. § 9545(b)(2). Notably here, both the governmental interference exception of Section 9545(b)(1)(ii) and the newly discovered fact exception of Section 9545(b)(1)(ii) require that the petitioner show that he could not have discovered the basis of his claim earlier through the exercise of due diligence. *Commonwealth v. Brensinger*, 218 A.3d 440, 448 (Pa. Super. 2019) (*en banc*); *Commonwealth v. Bankhead*, 217 A.3d 1245, 1248 (Pa. Super. 2019).

The PCRA court concluded that Appellant’s judgment of sentence became final on February 12, 2018, the last day upon which Appellant could have petitioned the Supreme Court for allowance of appeal from our decision affirming his conviction on January 12, 2018. *See* PCRA Court Opinion, 8/28/20, at 4; Pa.R.A.P. 1113(a) (providing that, subject to exceptions not relevant here, a petition for allowance of appeal to the Pennsylvania Supreme Court must be filed within 30 days after the entry of the order of the intermediate appellate court).⁸ The PCRA court determined that Appellant’s July 8, 2019 petition was beyond the one-year period allowed under the PCRA and therefore was untimely unless he satisfied one of the statutory timeliness exceptions. PCRA Court Opinion, 8/28/20, at 4.

While we agree with the PCRA court’s ultimate conclusion that Appellant’s petition was untimely, the court’s analysis misconstrues the effect of our February 12, 2018 decision on Appellant’s direct appeal. Our prior decision did not affirm Appellant’s judgment of sentence *in toto*, but rather we vacated the portion of Appellant’s sentence designating him as an SVP and requiring life-time registration, affirming the judgment “in all other respects.” *Dumas*, No. 516 WDA 2017, unpublished memorandum at 8.⁹ Therefore, Appellant’s judgment of sentence became final on April 4, 2018, the last day upon which he could have appealed from the trial court’s March 5, 2018 notification to Appellant on remand that he was required to register for life under SORNA. Appellant’s PCRA petition was not filed within one year of April 4, 2018 and therefore was untimely as measured from this date. 42 Pa.C.S. § 9545(b)(1).

Appellant invoked two of the timeliness exceptions in his PCRA petition. First, Appellant averred under Section 9545(b)(1)(i) of the PCRA that the government interfered with the presentation of his claim as follows:

The Public Defender of Erie County and the Common Pleas Court impeded my right to mental health court. In fact, I was denied any psychiatric and/or psychology services [, a]s well as a mental health review [u]ntil I reach the state [correctional institution] where I was deemed seriously mentally ill.

⁸ The thirtieth day after January 12, 2018 was Sunday, February 11, 2018, but the deadline for following a petition was extended until the following day by operation of law. 1 Pa.C.S. § 1908.

⁹ Our holding in Appellant’s direct appeal was based on *Commonwealth v. Butler*, 173 A.3d 1212 (Pa. Super. 2017), *rev’d*, 226 A.3d 972 (Pa. 2020), where we held that the SVP designation under SORNA constitutes criminal punishment and the portion of the SORNA statute that allowed for SVP determinations was constitutionally infirm. *Id.* at 1217-18; *see also Commonwealth v. Muniz*, 164 A.3d 1189, 1218, 1223 (Pa. 2017) (opinion announcing judgment of the court) (holding that SORNA registration and reporting requirements are punitive in nature); *Commonwealth v. Strafford*, 194 A.3d 168, 173 (Pa. Super. 2018) (providing that SORNA “authorized courts to include periods of registration as part of a sentence”).

PCRA Petition, 7/8/19, ¶5 (capitalization corrected). In addition, Appellant stated that his petition fell within the newly discovered fact exception of Section 9545(b)(1)(ii) based on his “right to have [his] case heard before a mental health court” as a result of his “serious mental illness diagnosis.” *Id.* (capitalization corrected).

The PCRA court concluded that Appellant did not satisfactorily plead either the government interference or newly discovered fact exception to the PCRA time bar. With respect to the government interference exception, the PCRA court noted that defense counsel is not considered a government official under the PCRA and therefore only his claims as to interference by the trial court would be cognizable under this timeliness exception. PCRA Court Opinion and Order, 8/28/20, at 4 n.3. In addition, the court found that Appellant did not explain the basis for his claimed right to a mental health review or psychological or psychiatric services, nor did he state how the trial court interfered with that right. *Id.* at 4. Relating to the newly discovered fact exception, the court determined that Appellant’s petition did not identify when he discovered any new facts that were unknown to him or that he could not have identified such facts with the exercise of due diligence. *Id.* at 4-5.

We agree with the lower court’s analysis. Appellant did not adequately plead any basis for his claimed rights to proceed in mental health court or for a mental health evaluation, how the trial court interfered with this right “in violation of the Constitution or laws of this Commonwealth or the Constitution or laws of the United States,” or that he was previously prevented in bringing his claim despite his due diligence. 42 Pa.C.S. § 9545(b)(1)(i); *Bankhead*, 217 A.3d at 1248. In addition, as the PCRA court correctly stated, any claimed interference by Appellant’s counsel would not qualify under Section 9545(b)(1)(i) as defense attorneys are not “government officials.” 42 Pa.C.S. § 9545(b)(1)(i); *Commonwealth v. Pursell*, 749 A.2d 911, 916 (Pa. 2000). With respect to Appellant’s claim of a newly discovered fact, Appellant does not allege any “fact” as contemplated by Section 9545(b)(1)(ii) but rather only his perceived “right” to have his case heard before a mental health court. *See Commonwealth v. Watts*, 23 A.3d 980, 986-87 (Pa. 2011) (drawing distinction between laws, including court decisions and rules, which do not trigger the Section 9545(b)(1)(ii) exception, and facts or events).

Finally, while Appellant claims on appeal that his appointed PCRA counsel did not “offer any meaningful review” of his claimed PCRA exceptions, Appellant’s Brief at 7, this assertion is directly contradicted by PCRA counsel’s representations in his no-merit letters that, following his review of the record and Appellant’s *pro se* petition, he determined that there was no basis to assert any of the statutory timeliness exceptions. No-Merit Letter, 8/5/19; Supplemental No-Merit Letter, 12/9/19. Accordingly, we conclude that the PCRA court correctly dismissed Appellant’s PCRA petition as untimely.

Order affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 04/30/2021

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10815-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Nicole Marie Lemmon to Nicole Marie Lutz.

The Court has fixed the 22nd day of July, 2021 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 7

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10881-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Bridgette Ann Muldowney to Bridget Ann Muldowney.

The Court has fixed the 10th day of June, 2021 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and

show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 7

CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10811-21 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of DeAndre Markel Pullium to DeAndre Markel Williams.

The Court has fixed the 9th day of June, 2021 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 7

FICTITIOUS NAME NOTICE

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

FICTITIOUS NAME NOTICE

1. Fictitious Name: HMC Knives
2. Address of the principal place of business, including street and number: 3527 Sterrettania Road, Erie, PA 16506
3. The real names and addresses, including street and number, of the persons who are parties to the registration: Hellion Machine Collective, LLC, 3527 Sterrettania Road, Erie, PA 16506
4. An application for registration of fictitious name under the Fictitious Names Act was filed on or about April 6, 2021 with the Pennsylvania Department of State.

May 7

INCORPORATION NOTICE

Notice is hereby given that Pioneer Early Learning Center, Inc. has been incorporated under the provisions of the Nonprofit Corporation Law of 1988, exclusively for charitable, religious, educational and scientific purposes. The Articles of Incorporation were filed with the Pennsylvania Department of State on March 31, 2021.

Thomas A. Pendleton, Esquire
MacDonald, Illig, Jones

& Britton LLP
100 State Street, Suite 700
Erie, PA 16507-1459

May 7



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Rick L. Clayton, CPA • Christopher A. Elwell, CPA • Ryan Garofalo, CPA

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SHERIFF SALES

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

MAY 21, 2021

AT 10 A.M.

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

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

John T. Loomis

Sheriff of Erie County

Apr. 30 and May 7, 14

SALE NO. 1

Ex. #12657 of 2020

Northwest Bank, Plaintiff

v.

Dillon R. Walter, Defendant

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2020-12657, Northwest Bank v. Dillon R. Walter, owner of property situated in Summit Township, Erie County, Pennsylvania being commonly known as 9070 Old French Road, Waterford, PA with 1,040 square footage and 6.4580 acreage.

Assessment Map No.:

(40) 21-101-19

Assessed Value Figure: \$121,336

Improvement thereon: One and half story dwelling

Mark G. Claypool, Esquire
Knox McLaughlin Gornall &
Sennett, P.C.
120 West Tenth Street
Erie, Pennsylvania 16501
(814) 459-2800

Apr. 30 and May 7, 14

SALE NO. 2

Ex. #10034 of 2021

THE ANDOVER BANK,

Successor in interest to

Community National Bank of

Northwestern Pennsylvania,

Plaintiff

v.

THOMAS G. GAGE, Defendant

DESCRIPTION

By virtue of a Writ of Execution filed at No. 2021-10034, Andover Bank vs. Thomas G. Gage, owner of property situate in the Township of Conneaut, Erie County, Pennsylvania being: 10970 Gage Road, Cranesville, Pennsylvania.

10 acres

Assessment Map Number:

(4) 7-22-7.03

Assessed Value Figure: \$117,550.00

Improvement Thereon: Residence

Kurt L. Sundberg, Esq.

Marsh Schaff, LLP

300 State Street, Suite 300

Erie, Pennsylvania 16507

(814) 456-5301

Apr. 30 and May 7, 14

SALE NO. 3

Ex. #10809 of 2020

FIRST NATIONAL BANK OF

PENNSYLVANIA, Plaintiff

v.

ELMER KEISEL, Defendant

DESCRIPTION

By virtue of a Writ of Execution filed at No. 10809-20, First National Bank of Pennsylvania vs. Elmer Keisel, owner of property situated in Township of Millcreek, Erie County, Pennsylvania being known as 2832 West Lake Road (a/k/a 2826 West 8th Street), Erie, PA 16505. Premises granted and conveyed to Elmer Keisel by Deed of Scott's Motel, Inc., a Pennsylvania corporation, dated November 18, 2005, and recorded in the Recorder of Deeds Division of Erie County on November 18, 2005, at Deed Book

Volume 1288, Page 932, Instrument No. 2005-040950.

Acreage: 1.0700 - Square Footage: 8,302 - Classification: C

Assessment Map No.: (33) 29-50-2

Assessed Value Figure: \$791,900.00

(Land & Building)

Improvement thereon:

BAR/LOUNGE

Business Living Area - 8,302

Year Built - 1950

Improvement Name -

JOE ROOT'S GRILL

FIRST NATIONAL BANK OF

PENNSYLVANIA

David W. Raphael, Esquire

Attorney for First National Bank of

Pennsylvania

100 Federal Street - 4th Floor

Pittsburgh, PA 15212

412-465-9718

Apr. 30 and May 7, 14

SALE NO. 4

Ex. #11651 of 2020

U.S. Bank National Association,

as indenture trustee, for the CIM

Trust 2016-3, Mortgage-Backed

Notes, Series 2016-3, Plaintiff

v.

Lois M. Kuhns, Defendant

DESCRIPTION

By Virtue of Writ of Execution filed at No. 2020-11651, U.S. Bank National Association, as indenture trustee, for the CIM Trust 2016-3, Mortgage-Backed Notes, Series 2016-3 vs. Lois M. Kuhns, Single, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 2626 Chestnut Street, Erie, PA 16508

0.996 Acres

Assessment Map number:

19060048011600

Assessed figure: \$56,600.00

Improvement thereon: Single

Family Residential Dwelling

Hladik, Onorato & Federman, LLP

289 Wissahickon Avenue

North Wales, PA 19454

(215) 855-9521

Apr. 30 and May 7, 14

SALE NO. 5

Ex. #10416 of 2020

Citibank, N.A., not in its individual capacity but solely as Owner Trustee for New Residential Mortgage Loan Trust 2020-NPL1, Plaintiff

v.

Edith A. Treiber, Defendant
DESCRIPTION

By Virtue of Writ of Execution filed to No. 10416-2020, Citibank, N.A., not in its individual capacity but solely as Owner Trustee for New Residential Mortgage Loan Trust 2020-NPL1 vs. Edith A. Treiber Kenneth S. Treiber, Jr., and Edith A. Treiber, owner(s) of property situated in Millcreek Township, Erie County, Pennsylvania being 3634 Argyle Avenue, Erie, PA 16505 0.5797

Assessment Map number:

33006020001500

Assessed figure: \$150,000.00

Improvement thereon: Single Family Residential

Hladik, Onorato & Federman, LLP
289 Wissahickon Avenue
North Wales, PA 19454
(215) 855-9521

Apr. 30 and May 7, 14

SALE NO. 6

Ex. #10168 of 2020

Specialized Loan Servicing LLC, Plaintiff

v.

Daniel J. Scutella and Marjorie A. Scutella, Defendants
DESCRIPTION

By virtue of a Writ of Execution filed to No. 10168-2020, Specialized Loan Servicing LLC vs. Daniel J. Scutella and Marjorie A. Scutella, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 3015 Post Avenue, Erie, PA 16508 .2282

Assessment Map number:

19062041022000

Assessed Value figure: \$97,420.00

Improvement thereon: a residential dwelling

LOGS Legal Group LLP

Attorney for Movant/Applicant

3600 Horizon Drive, Suite 150

King of Prussia, PA 19406

(610) 278-6800

Apr. 30 and May 7, 14

SALE NO. 7

Ex. #10912 of 2020

The Huntington National Bank, Plaintiff

v.

Michael Scharrer, as believed Heir and/or Administrator to the Estate of Cynthia L. Scharrer; Bella Scharrer, as believed Heir and/or Administrator to the Estate of Cynthia L. Scharrer; Unknown Heirs and/or Administrators of the Estate of Cynthia L. Scharrer, Defendants
DESCRIPTION

By virtue of a Writ of Execution file to No. 2020-10912, The Huntington National Bank vs. Michael Scharrer, as believed Heir and/or Administrator to the Estate of Cynthia L. Scharrer; Bella Scharrer, as believed Heir and/or Administrator to the Estate of Cynthia L. Scharrer; Unknown Heirs and/or Administrators of the Estate of Cynthia L. Scharrer, owner(s) of property situated in The Township of Waterford, Erie County, Pennsylvania being 10833 Greenlee Road, Waterford, PA 16441

2.6400 acres

Assessment Map Number:

47011027001107

Assessed Value figure: \$180,570.00

Improvement thereon: Single Family Dwelling

Joseph E. DeBarberie, Esquire

Manley Deas Kochalski LLC

P.O. Box 165028

Columbus, OH 43216-5028

614-220-5611

Apr. 30 and May 7, 14

SALE NO. 8

Ex. #11980 of 2020

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR THE REGISTERED HOLDER OF MORGAN STANLEY ABS CAPITAL I INC. TRUST 2007-HE1 MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2007-HE1, Plaintiff

v.

DAMIAN HENDERSON; SARAH HENDERSON A/K/A SARA HENDERSON,

Defendants

DESCRIPTION

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE TOWNSHIP OF LAWRENCE, ERIE COUNTY, PENNSYLVANIA: BEING KNOWN AS: 863 RANKINE AVENUE, ERIE, PA 16511 BEING PARCEL NUMBER: 29010046001600 IMPROVEMENTS: RESIDENTIAL PROPERTY Robertson, Anschutz, Schneid, Crane & Partners, PLLC A Florida Limited Liability Company 133 Gaither Drive, Suite F Mt. Laurel, NJ 08054 (855) 225-6906 Attorneys for Plaintiff Robert Flacco, Esquire Id. No. 325024 rflacco@raslg.com

Apr. 30 and May 7, 14

SALE NO. 9

Ex. #12100 of 2020

KeyBank N.A. s/b/m First Niagara, Plaintiff

v.

Richard V. Olewski, Defendants
DESCRIPTION

By virtue of a Writ of Execution filed to No. 12100-2020, KeyBank N.A. s/b/m First Niagara vs. Richard V. Olewski, owner(s) of property situated in Fifth Ward, Erie County, Pennsylvania being 1107 East 30th St., Erie, PA 16504 1,144 sq. footage Assessment Map number: 18650047032200 Assessed Value figure: \$58,700 Michelle Pierro, Esquire 436 7th Ave., Ste. 2500 Pittsburgh, PA 15219 412-434-7955

Apr. 30 and May 7, 14

Digital Forensics and the Practice of Law

Thursday, May 20, 2021

View Avinash Srinivasan, Steven Bergin and Timothy Bremer via Zoom Conferencing
at The Will J. Schaaf & Mary B. Schaaf Education Center, 429 West 6th Street, Erie, PA 16507

Registration: 11:45 a.m.; **Seminar:** Noon - 1:00 p.m.

Cost: \$47 - ECBA Members (Judges & Attorneys) and their Non-attorney Staff; \$60 - Non-members

Due to Gov. Tom Wolf's COVID-19 facility restrictions, the ECBA will hold programs live when possible, via Zoom or a combination of both. The Will J. Schaaf & Mary B. Schaaf Education Center can **ONLY seat 16 people**. Once that limit has been reached, the remaining registrants can participate in the CLE via Zoom.

1 Hour Substantive CLE Credit

Speakers:



Avinash Srinivasan,
Ph.D., CEH, CHFI,
Director of Cyber-Ops
& Forensics Solutions



Steven Bergin,
MS,
Digital Forensics
Examiner



Timothy Bremer,
MS,
Digital Forensics
Account Manager

Topics covered:

- What is digital forensics?
- How digital forensics can help law practices
- Laws and regulations pertinent to digital forensics
- Discuss the digital forensics process at a high level
- Present some interesting cases and statistics

Reservations due to the ECBA office by May 13, 2021.

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

BRIGAMAN, GLENN K., JR., a/k/a GLENN K. BRIGAMAN, a/k/a GLENN BRIGAMAN, JR., a/k/a GLENN BRIGAMAN,
deceased

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

Executor: Kevin G. Brigaman, c/o 210 West 6th Street, Erie, PA 16507

Attorney: Joseph T. Messina, Esquire, 210 West 6th Street, Erie, PA 16507

DANKO, VIOLA, a/k/a VIOLA PEARL DANKO,
deceased

Late of McKean Twp., Erie County, PA

Administrator D.B.N. C.T.A.: Robert L. Cowan, c/o Kristen R. Matthews, Esq., 17 W. Miner St., West Chester, PA 19382;

Attorney: Kristen R. Matthews, Esq., MacElree Harvey, Ltd., 17 W. Miner St., West Chester, PA 19382

ELLER, CAROL A.,
deceased

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

Executrix: Linda C. Sauers, c/o James E. Marsh, Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507

Attorney: James E. Marsh, Jr., Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

FATH, CHARLES ANTHONY, III, a/k/a CHARLES A. FATH, a/k/a CHARLES FATH, a/k/a CHUCK FATH,
deceased

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

Co-administrators: Casey R. Fath and Shelly C. Fath, c/o 504 State Street, 3rd Floor, Erie, PA 16501

Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

HULTMAN, CALEB THEODORE,
deceased

Late of Warren City, Warren County, Pennsylvania

Administrator: Stephen Hultman, c/o Andrew G. Rothey, Esq., Rosen & Perry, P.C., The Frick Building, Suite 200, 437 Grant Street, Pittsburgh, PA 15219

Attorney: Andrew G. Rothey, Esq., Rosen & Perry, P.C., The Frick Building, Suite 200, 437 Grant Street, Pittsburgh, PA 15219

LIEGL, LOUISE J., a/k/a LOUISE LIEGL, a/k/a LOUISE J. LIEGEL,
deceased

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

Executor: Richard F. Liegl, c/o 504 State Street, 3rd Floor, Erie, PA 16501

Attorney: Michael J. Nies, Esquire, 504 State Street, 3rd Floor, Erie, PA 16501

MARINO, JUDITH A., a/k/a JUDITH A. NUNES MARINO,
deceased

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

Executrix: Karen M. Feron, c/o Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507-1542

Attorney: Denis W. Krill, Esquire, Denis W. Krill, P.C., 309 French Street, Erie, Pennsylvania 16507-1542

PETRONE, THOMAS A., a/k/a THOMAS PETRONE,
deceased

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

Executrix: Shauna Thompson, 4559 Franklin Road, Fairview, PA 16415

Attorney: Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

SEMELKA, ROBERT A.,
deceased

Late of North East Township, Erie County, Pennsylvania

Executor: Robert D. Semelka, 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

VIEIRA, AUDREY A., a/k/a AUDREY ARLENE VIEIRA,
deceased

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

Co-executors: James A. Vieira and Therese A. Vieira, 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

SECOND PUBLICATION

CARR, DARREL A., a/k/a DARREL ALBERT CARR, a/k/a DARREL CARR,
deceased

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

Executor: Dennis B. Carr, 4028 Route 215, East Springfield, PA 16411

Attorney: Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**EVANS, IRENE H., a/k/a
IRENE EVANS,
deceased**

Late of the Township of Millcreek
Executor: Gordon A. Evans,
 4390 West Ridge Road, Erie, PA
 16506
Attorney: Grant M. Yochim, Esq.,
 24 Main St. E., P.O. Box 87,
 Girard, PA 16417

**FEDDOCK, JAMES A.,
deceased**

Late of the Township of Millcreek,
 County of Erie and Commonwealth
 of Pennsylvania
Executor: Michael J. Feddock
Attorney: David J. Rhodes,
 Esquire, ELDERKIN LAW FIRM,
 456 West 6th Street, Erie, PA
 16507

**GANZA, LOUIS L., a/k/a
LOUIS GANZA,
deceased**

Late of the Township of Girard,
 Commonwealth of Pennsylvania
Executor: Leonard L. Ganza,
 c/o Vendetti & Vendetti,
 3820 Liberty Street, Erie,
 Pennsylvania 16509
Attorney: Joseph P. Vendetti,
 Esquire, Vendetti & Vendetti,
 3820 Liberty Street, Erie, PA
 16509

**GEORGE, JAMES F., a/k/a
JAMES F. GEORGE, JR.,
deceased**

Late of the Township of Girard
Executrix: Anne Godhard,
 12425 Cherry Hill Road, Albion,
 PA 16401
Attorney: Valerie H. Kuntz, Esq.,
 24 Main St. E., P.O. Box 87,
 Girard, PA 16417

**GORDON, TIMOTHY J.,
deceased**

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

**HAYES, CARMELA J.,
deceased**

Late of the Borough of Lake City,
 County of Erie and Commonwealth
 of Pennsylvania
Administrator: Patrick J. Hayes,
 c/o W. Atchley Holmes, Esq.,
 Suite 300, 300 State Street, Erie,
 PA 16507
Attorney: W. Atchley Holmes,
 Esq., MARSH SCHAAF, LLP,
 Suite 300, 300 State Street, Erie,
 PA 16507

**HIGINBOTHAM, GLENN,
deceased**

Late of Erie County
Executor: Terry Richards,
 c/o Andrew F. Gornall, Esq.,
 2535 West 26th Street, Suite B,
 Erie, PA 16506
Attorney: Andrew F. Gornall, Esq.,
 2535 West 26th Street, Suite B,
 Erie, PA 16506

**KRESSE, RICHARD S.,
deceased**

Late of Millcreek Township,
 County of Erie and Commonwealth
 of Pennsylvania
Executor: Mark R. Kresse
Attorney: Thomas J. Minarcik,
 Esquire, ELDERKIN LAW FIRM,
 456 West 6th Street, Erie, PA
 16507

**MASSARO, ANTHONY JAMES,
a/k/a ANTHONY J. MASSARO,
deceased**

Late of the Township of Millcreek,
 County of Erie and Commonwealth
 of Pennsylvania
Administratrix: Holli D. Massaro,
 c/o James E. Marsh, Jr., Esq.,
 Suite 300, 300 State Street, Erie,
 PA 16507
Attorney: James E. Marsh, Jr.,
 Esq., MARSH SCHAAF, LLP,
 Suite 300, 300 State Street, Erie,
 PA 16507

**MOORE, JOAN P., a/k/a
JOAN MOORE,
deceased**

Late of the Township of Millcreek
Executrix: Susan J. Moore,
 4852 Appaloosa Court, Erie, PA
 16506
Attorney: Grant M. Yochim, Esq.,
 24 Main St. E., P.O. Box 87,
 Girard, PA 16417

**PAULY, BERNARD L.,
deceased**

Late of the City of Erie, Erie
 County
Co-executrices: Susan M.
 Kaufman and Elaine Dankenbring
Attorney: Norman A. Stark, Esq.,
 Marsh Schaaf, LLP, 300 State
 Street, Suite 300, Erie, PA 16507

**POLENTA, CAROL J., a/k/a
CAROL JEAN POLENTA, a/k/a
CAROL POLENTA,
deceased**

Late of the City of Erie, County
 of Erie, Commonwealth of
 Pennsylvania
Executrix: Jacqueline Barber,
 3420 Breezeway Drive, Erie, PA
 16506
Attorney: Grant M. Yochim, Esq.,
 24 Main St. E., P.O. Box 87,
 Girard, PA 16417

**PUGH, RALPH, a/k/a
RALPH L. PUGH, a/k/a
RALPH LEROY PUGH,
deceased**

Late of the Township of
 Harborcreek, County of Erie,
 Commonwealth of Pennsylvania
Executrix: Kathy A. Gaston,
 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

**RHOLLANS, RUTH R., a/k/a
RUTH RATHMAN RHOLLANS,
deceased**

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

**RICHARDSON, MARILYN E.,
a/k/a MARILYN RICHARDSON,
deceased**

Late of the Borough of Lake City
Executor: Gerold Richardson,
10720 West Middle Road, Lake
City, PA 16423
Attorney: Valerie H. Kuntz, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**SCHWARTZ, WILLIAM F.,
deceased**

Late of the Township of Millcreek,
County of Erie and State of
Pennsylvania
Executor: John G. Kennedy,
413 Prospect Ave., Charleston,
WV 25303
Attorney: None

**SNEARY, RITA R., a/k/a
RITA SNEARY,
deceased**

Late of the Township of Millcreek
Co-administratrices: Julie R.
Cassano, 9832 Sampson Road,
Erie, PA 16509 and Tracy L.
Chrzanowski, 4622 Springview
Dr., Apt. 203, Erie, PA 16509
Attorney: Grant M. Yochim, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**STEVENS, EARL G., a/k/a
EARL STEVENS,
deceased**

Late of the Borough of Girard,
County of Erie, Commonwealth
of Pennsylvania
Executrix: Susette Vanaskey,
9202 Middle Road, Lake City,
PA 16423
Attorney: Grant M. Yochim, Esq.,
24 Main St. E., P.O. Box 87,
Girard, PA 16417

**STEVENSON, BRUCE LEON,
deceased**

Late of the City of Erie, County
of Erie, Commonwealth of
Pennsylvania
Executor: Eric L. Prince,
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

**WAINWRIGHT, ROBERT C.,
deceased**

Late of the City of Erie, County
of Erie, and State of Pennsylvania
Executrix: Stephanie J. Link,
2229 Foxboro Court, Erie, PA
16510
Attorney: Tina Fryling, Esq.,
4402 Peach Street, Suite 3, Erie,
PA 16509

**WINSCHER, JOHN P.,
deceased**

Late of the City of Erie, Erie
County
Executrix: Lisa M. Winschel
Attorney: John F. Mizner, Esquire,
311 West Sixth Street, Erie, PA
16507

**ZARNICK, GENE G., II,
deceased**

Late of the Township of Millcreek,
County of Erie, Commonwealth of
Pennsylvania
Executrix: Mary Ann Zarnick,
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

THIRD PUBLICATION

**CHASE, DONALD S.,
deceased**

Late of the City of Erie, County
of Erie, Commonwealth of
Pennsylvania
Executor: Philip S. Chase,
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

**DASCANIO, LAURA,
deceased**

Late of Fairview Township, Erie
County
Executrix: Patricia McMahon
Attorney: William J. Kelly, Jr.,
Esquire, 230 West 6th Street, Suite
201, Erie, PA 16507

**HICKS, ARTHUR G., JR., a/k/a
ARTHUR G. HICKS, a/k/a
ARTHUR GLENN HICKS,
deceased**

Late of the City of Erie, Erie
County
Executrix: Mildred Williams
Attorney: Edwin W. Smith, Esq.,
Marsh Schaff, LLP, 300 State
Street, Suite 300, Erie, PA 16507

**HILL, DOLORES A.,
deceased**

Late of Millcreek Township,
County of Erie, Commonwealth
of Pennsylvania
Executrix: Kathleen M.
Longenecker, 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

**KUNEMAN, WILLIAM J.,
deceased**

Late of Millcreek Township,
County of Erie and Commonwealth
of Pennsylvania
Executrix: Caprice L. Schroeck,
233 Pittsburgh Avenue, Erie, PA
16505-2135
Attorneys: MacDonald, Illig, Jones
& Britton LLP, 100 State Street,
Suite 700, Erie, Pennsylvania
16507-1459

**LEONE, JOSEPH A., a/k/a
JOSEPH ANTHONY LEONE,
deceased**

Late of Millcreek Township,
Erie County, Commonwealth of
Pennsylvania
Executor: Jeffrey D. Scibetta,
c/o Jeffrey D. Scibetta, Esq.,
120 West Tenth Street, Erie, PA
16501
Attorney: Jeffrey D. Scibetta,
Esq., Knox McLaughlin Gornall
& Sennett, P.C., 120 West Tenth
Street, Erie, PA 16501

**LINEBACH, ADAM, JR., a/k/a
ADAM LINEBACH,
deceased**

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

Administratrix: Lisa A. Lochbaum, c/o 504 State Street, Suite 300, Erie, PA 16501

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

**MALLOY, ESTHER A.,
deceased**

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

Executor: Gerald Nelson, 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

**McFARLAND, ROSALIE MARIE,
deceased**

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

Administrator: Stephen M. Samec, c/o Leigh Ann Orton, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428

Attorney: Leigh Ann Orton, Esquire, Orton & Orton, LLC, 68 East Main Street, North East, PA 16428

**MILLER, JOYCE ANN, a/k/a
JOYCE A. MILLER, a/k/a
JOYCE A. MILLER PhD, a/k/a
JOYCE MILLER,
deceased**

Late of Millcreek Township, Erie County, Pennsylvania

Executrix: Norma Johnson, 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

**MOUNTJOY, DONALD A.,
deceased**

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

Co-executrices: Deborah Ann Roberts and Katherine Amelia Cioffi, 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

**OWENS, JAMES C., JR., a/k/a
JAMES C. OWENS, a/k/a
JAMES OWENS,
deceased**

Late of Harborcreek Township, Erie County

Executrix: Angela Reisinger

Attorney: Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**RAJECKI, RICHARD F., a/k/a
RICHARD FRANCIS REJECKI,
a/k/a RICHARD RAJECKI,
deceased**

Late of the Township of McKean
Executrix: Renee M. McDonald, 3008 Tamarack Drive, Erie, PA 16506

Attorney: Grant M. Yochim, Esq., 24 Main Street East, P.O. Box 87, Girard, PA 16417

**SCARPINO, ANNA M., a/k/a
ANN MARIE SCARPINO,
deceased**

Late of the City of Erie, County of Erie

Executor: Richard Scarpino, Jr., 2425 Dorn Road, Waterford, Pennsylvania 16441

Attorney: Mary Payton Jarvie, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

**STOKES, MARGARET R.,
deceased**

Late of the Borough of North East, County of Erie, Commonwealth of Pennsylvania

Co-executors: Kathleen M. Robinson and David J. Robinson, 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

**THOMAS, HELEN ELIZABETH,
a/k/a HELEN E. THOMAS,
deceased**

Late of North East Township, Erie County, Pennsylvania

Executor: Bruce D. Thomas, 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

**WEBER, BETTY J.,
deceased**


Late of the City of Erie, Erie County, Pennsylvania

Executor: James Weber, 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

CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

MARK J. KUCHAR	814-870-7603
MacDonald Illig Jones & Britton LLP	
100 State Street, Suite 700	
Erie, PA 16507	<i>mkuhar@mijb.com</i>
JUSTIN L. MAGILL	814-461-6414
Magill Law Ltd	
2820 W. 23rd St., Suite 100	
Erie, PA 16506	<i>jmagill@magill-law821.com</i>



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Log in time: 11:15 a.m.; **Seminar starts promptly at:** 11:30 a.m. - 1:00 p.m.

Cost: \$70 - ECBA Members (Judges & Attorneys) and their Non-attorney Staff; \$90 - Non-members

Speakers:



Arlene Marshall-Hockensmith, Esquire, (Moderator), is the Administrative Officer of the Pennsylvania Legal Aid Network, Inc. (PLAN, Inc.). Arlene serves as a member of the Veteran's Initiative Advisory Board at Widener Law Commonwealth. She is also Co-chair of the Pennsylvania Bar Association's Legal Services to the Public Committee, and the Editor-in-Chief of the Minority Bar Committee's Houston's Legacy Newsletter. Arlene received her J.D. from Widener Commonwealth Law School and her B.A. from the Pennsylvania State University.



Queenette Echefu, Esquire, (Breakout Room Facilitator), is the MLK and

CLE Board Fellow through the Pennsylvania Legal Aid Network, Inc. (PLAN, Inc.) Fellowship Program.



Patrick M. Cicero, Esquire, (Breakout Room Facilitator), joined the

Pennsylvania Legal Aid Network (PLAN) as its Executive Director in 2020.



George Joseph, Esquire, has practiced as a school solicitor for more than 35 years. He has extensive experience in policy drafting, Family Educational Rights and Privacy Act, Open Meeting Law, State Officials Ethics Act and the Right to Know Law matters. Atty. Joseph has also handled litigation of workers' compensation; and his experience includes the representation of injured workers, employers and insurers.



Catherine Moodey Doyle, Esquire, is currently the Deputy City Solicitor for the City of Erie. She is a Board member of the Erie County Bar Association and serves on the Diversity and Inclusion Division. She is a certified mediator and has also completed advanced training in Collaborative Practice. Catherine received her J.D. from the Duquesne University School of Law and her B.A. from Allegheny College.

Seminar:

Objection is an interactive educational experience on diversity, inclusion, and bias issues in the legal profession. Developed by the Pennsylvania Continuing Legal Education (CLE) Board and Carnegie Mellon Entertainment and Technology Center, this program is designed to advance the awareness of these issues in the legal community. Facilitator led, the program utilizes animated vignettes, audience polling technology, and group discussions to explore realistic workplace situations and contemplate issues, viewpoints, and ethical issues.

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