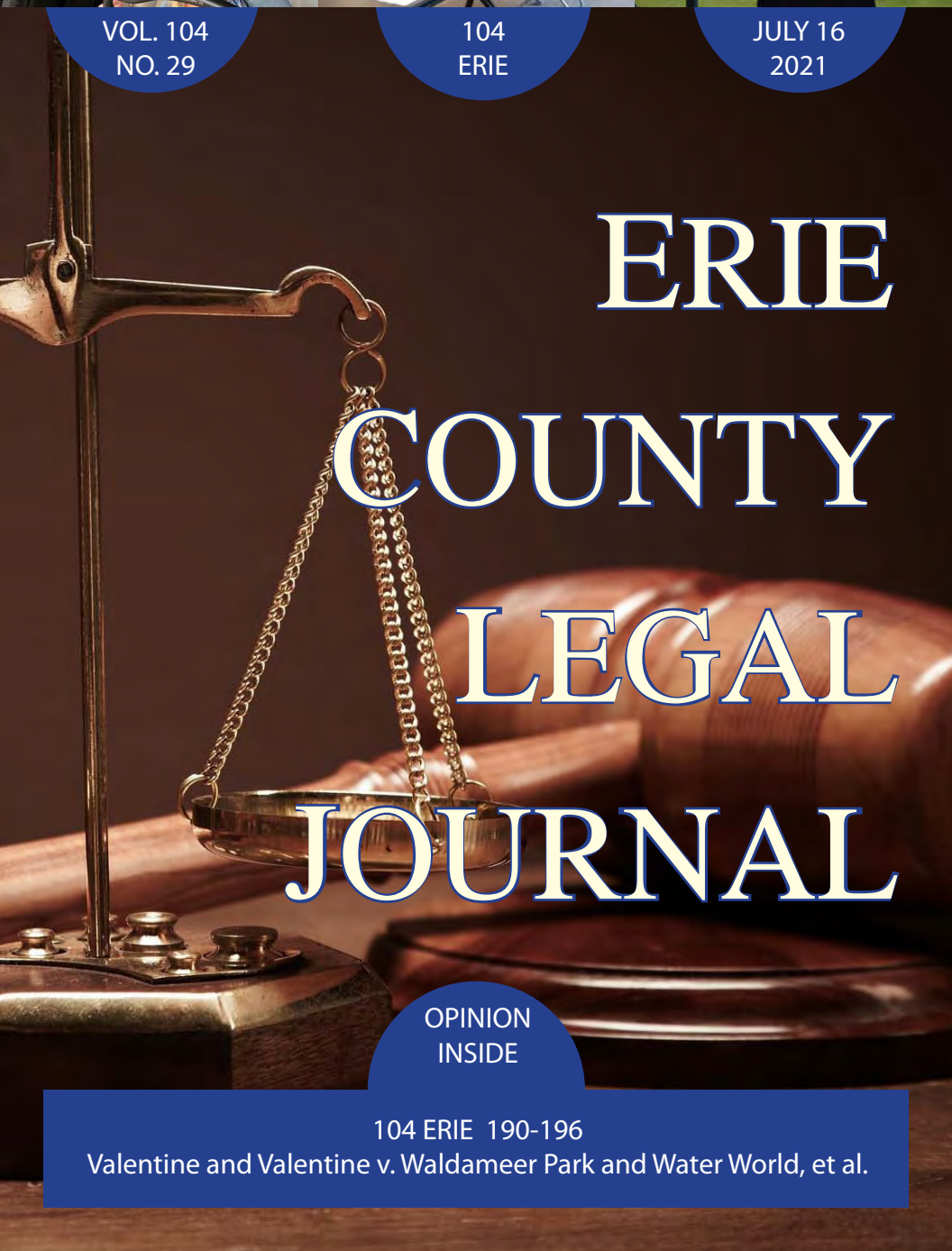




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2021



# 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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In-house Counsel Leadership Group Meeting  
Noon  
ECBA Headquarters live (must RSVP)  
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### TUESDAY, JULY 20, 2021

Solo/Small Firm Section Meeting  
Noon  
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### WEDNESDAY, JULY 21, 2021

AKT Kid Konnection Event  
5:30 - 7:00 p.m.  
Get Air Trampoline Park

### THURSDAY, JULY 22, 2021

Red Mass Committee Meeting  
4:00 p.m.  
ECBA Headquarters live (must RSVP)  
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### FRIDAY, JULY 23, 2021

Young Lawyers Division Meeting  
Noon  
ECBA Headquarters live (must RSVP)  
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### MONDAY, JULY 26, 2021

ECBA Board of Directors Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live (must RSVP)  
or via Zoom

### THURSDAY, JULY 29, 2021

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

### TUESDAY, AUGUST 3, 2021

ADR Committee Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
Education Center live (must RSVP)  
or via Zoom

### WEDNESDAY, AUGUST 4, 2021

Diversity and Inclusion Education  
Subcommittee Meeting  
Noon  
The Will J. Schaaf & Mary B. Schaaf  
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### FRIDAY, AUGUST 6, 2021

ECLF Bocce Tournament Committee Meeting  
Noon  
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**MARC VALENTINE and JOANNE VALENTINE**

**v.**

**WALDAMEER PARK AND WATER WORLD, and WALDAMEER PARK, INC.  
t/d/b/a WALDAMEER PARK AND WATER WORLD, and  
WALDAMEER PARK, INC. and PAUL T. NELSON**

*CIVIL PROCEDURE / MOTION FOR SUMMARY JUDGMENT*

After the relevant pleadings are closed, but within such time as not to delay unreasonably the trial, any party may move for summary judgment in whole or in part as a matter of law if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to the jury.

*CIVIL PROCEDURE / MOTION FOR SUMMARY JUDGMENT*

In a Motion for Summary Judgment, the adverse party bears the burden of proof and must provide sufficient evidence on the issue in that a jury could return a verdict for the adverse party.

*CIVIL PROCEDURE / MOTION FOR SUMMARY JUDGMENT*

A trial court must view the entire record in the light most favorable to the adverse party and resolve all doubts to the existence of a triable issue against the party moving for summary judgment.

*CIVIL PROCEDURE / MOTION FOR SUMMARY JUDGMENT*

If an adverse party fails to produce sufficient evidence of the issue which it bears the burden of proof, the party moving for summary judgment is entitled to judgment as a matter of law.

*TORTS / NEGLIGENCE*

Generally in a negligence cause of action, Plaintiffs must plead four necessary elements: duty of care, breach of said duty of care, causal connection between a defendant's conduct and the injury that results, and damages.

*TORTS / NEGLIGENCE / DUTY*

Whether Plaintiffs can prove a duty exists by Defendants is a question of law for a court to decide.

*TORTS / NEGLIGENCE / DUTY*

An operator of a place of amusement is not an insurer of the operator's patrons. Operators of places of amusement are only liable for injuries caused to patrons where the operator fails to use reasonable care in the construction, maintenance, and management of the facility.

*TORTS / NEGLIGENCE / DUTY*

The no-duty rule is based on the sound policy judgment that it is undesirable to hold individuals liable for failing to warn against or protect others from obvious risks. Defendants have no duty of care to warn, protect, or insure against risk which are common, frequent, and expected and inherent in an activity. If the no-duty rule applies to a claim for negligence, plaintiff is unable to set forth a prima facie case for liability under a theory of negligence.

*TORTS / NEGLIGENCE / DUTY*

If plaintiffs introduce adequate evidence that the amusement facility or operator deviated in some relevant respect from established custom then the no-duty rule does not apply and the

case will proceed to the jury. Plaintiffs cannot baldly assert customs or duties exist without the presentations of evidence in support.

*TORTS / NEGLIGENCE / DUTY*

No Pennsylvania statute imposes a duty as alleged by Appellants making lifeguards or amusement park establishments liable for not assisting patrons onto and off of inner tubes.

*CIVIL PROCEDURE / PLEADINGS / GENERAL REQUIREMENTS*

The material facts on which a cause of action or defense is based shall be stated in a concise and summary form. The purpose is to have the pleader disclose sufficient facts to notify the adverse party of the claims to which the adverse party will be required to defend against.

*CIVIL PROCEDURE / PLEADINGS / GENERAL REQUIREMENTS*

Plaintiffs must satisfy two conditions: the pleadings must adequately explain the nature of the claim to the opposing party so as to permit him to prepare a defense and the pleadings must be sufficient to convince the court that the averments are not merely subterfuge.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA

CIVIL DIVISION

NO. 12135-2018

45 WDA 2020

Appearances: Jon A. Barkman, Esq. on behalf of Plaintiffs/Appellants

Patrick M. Carney, Esq. and G. Michael Garcia, II, Esq., on behalf of  
Defendants/Appellees

**1925(a) OPINION**

Domitrovich, J.,

March 9, 2020

Marc and Joanne Valentine [hereinafter Appellant M.V. and Appellant J.V. respectively] are appealing this Trial Court's Order dated December 9, 2019, in which Appellees Waldameer Park and Water World and Waldameer Park, Inc. t/d/b/a Waldameer Park and Water World, and Waldameer Park, Inc., and Paul T. Nelson's [hereinafter Appellees] were granted Summary Judgment. Appellants enumerate eighteen (18) issues in their Concise Statement of which this Trial Court has consolidated into four (4) issues as follows:

- (1) Whether this Trial Court erred in granting Summary Judgment for Appellees under the no-duty rule where a patron's "fall-back" on an inner tube on an amusement park water ride is a risk encountered by a patron that is common, frequent, inherent, or expected in the activity?
- (2) Whether this Trial Court erred in granting Appellees' Motion for Summary Judgment where Appellants have no statutorily imposed duty of lifeguards and where no evidence indicated Appellees deviated from an established custom?
- (3) Under Pa.R.C.P. 1019, whether this Trial Court erred in granting Summary Judgment for Appellees where Appellants' Complaint did not state clearly allegations of premises liability?

(4) Whether Appellants waived the issue regarding Comparative Negligence by failing to preserve properly the issue of the Comparative Negligence Act's applicability to this case?

**Appellants alleged in their Complaint:** On August 23, 2016, Appellant M.V. attempted to board an inner tube on the Endless River attraction at Appellees' amusement park and was unsuccessful. In doing so, Appellants state Appellant M.V. struck his head on the bottom of the Endless River attraction and suffered injuries as a result. Appellants claim employees "negligently failed to assist and/or help the [Appellant], Marc Valentine, enter onto the inner tube." (Appellants' Complaint, ¶20). By failing to assist Appellant M.V. onto an inner tube, Appellants alleged Appellees' employees caused injuries to Appellant M.V.

**Appellees alleged in their Motion for Summary Judgment:** Appellees in their capacity as operators of an amusement park cited to the "no-duty" rule which indicates Appellees owed no duty to Appellants to protect them from common, inherent, expected, or frequent risks. Appellees also argued Appellants failed to set forth statutory or case law imposing a duty of care on Appellees' employees. Appellees argued Appellants cannot satisfy the exception to the no-duty rule in that Appellants cannot prove Appellees' employees deviated from an established custom or duty. Appellees also asserted that Appellants' claims for premises liability are beyond the statute of limitations and further allege Appellants are unable to present sufficient evidence that a cause of action for premises liability exists.

The pertinent **Pennsylvania Rule of Civil Procedure 1035.2** states that after the relevant pleadings are closed, but within such time as not to delay unreasonably the trial, any party may move for summary judgment in whole or in part as a matter of law: "... (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to the jury. See Pa R. Civ. P. 1035.2.

In a Motion for Summary Judgment, the adverse party bears the burden of proof and must provide sufficient evidence on the issue in that a jury could return a verdict for the adverse party. *McCarthy v. Dan Lepore & Sons Co., Inc.*, 724 A.2d 938, 940 (Pa. Super. 1998). A trial court must view the entire record in the "light most favorable to the [adverse] party" and resolve all doubts to the existence of a triable issue against the party moving for summary judgment. *Id.* If an adverse party fails to produce sufficient evidence of the issue which it bears the burden of proof, the party moving for summary judgment is entitled to judgment as a matter of law. *Id.*

**Appellants' first issue as to the "no-duty" rule:** Generally in a negligence cause of action, Plaintiffs must plead four necessary elements: duty of care, breach of said duty of care, causal connection between a defendant's conduct and the injury that results, and damages. *Zeidman v. Fisher*, 980 A.2d 637, 639 (Pa. Super. 2009). Whether Plaintiffs can prove a duty exists by Defendants is a question of law for a court to decide. *Charlie v. Erie Ins. Exchange*, 100 A.3d 244, 250 (Pa. Super. 2014).

Moreover, an operator of a place of amusement is not an insurer of the operator's patrons. *Jones v. Three Rivers Management Corp.*, 394 A.2d 546, 549 (Pa. 1978). Operators of places of amusement are only liable for injuries caused to patrons where the operator fails to "use

reasonable care in the construction, maintenance, and management of the facility." *Id.* (citing *Taylor v. Churchill Valley Country Club*, 228 A.2d 768, 769 (1967)). The no-duty rule is based on "the sound policy judgment that it is undesirable to hold individuals liable for failing to warn against or protect others from obvious risks ...." *Craig v. Amateur Softball Ass'n of America*, 951 A.2d 372, 378 (Pa. Super. 2008). Defendants have "no duty of care to warn, protect, or insure against risks which are 'common, frequent, and expected' and 'inherent' in an activity." *Id.* at 375 (citing *Jones v. Three Rivers Management Corp.*, 394 A.2d 546, 549 (Pa. 1978)). If the no-duty rule applies to a claim for negligence, plaintiff is unable to set forth a *prima facie* case for liability under a theory of negligence. *Id.* at 375-76.

Furthermore, when individuals use their senses to ensure their own safety, they are required to do so or be solely liable for the consequences for their actions. *Bartek v. Grossman*, 52 A.2d 209, 211 (Pa. 1947). If victims could have avoided injuries by exercising ordinary care, victims cannot recover damages for their injuries and then the victims' recovery is barred. *Id.*

In the instant case, Appellant M.V. testified by deposition he had previous experiences riding inner tubes and participating in similar attractions to the Endless River at Waldameer Park and Water World. (Marc Valentine's Deposition, May 13, 2019, at pg. 34:2-23). Appellant M.V. also testified he was familiar with getting onto the inner tubes, and had done so in the past. (Marc Valentine's Deposition at pg. 50:7-21). Appellant M.V. stated at his deposition:

A. --- where you can swim and you could have popped your head up through. Okay? And you could have got your head up, and then wiggled your back out around and then pop one leg up through and then another. You could have easily got up that way. Because I was in a shallow water and the way I got on, like --- like I said, at just a couple other places I've been at, it's similar, but not quite the same condition.

*Id.* Furthermore, Appellant M.V. was concerned about the inner tube sliding from underneath him or "that one side would kick" out from underneath him and he would go backwards. *Id.* Appellant M.V. admitted he "over-engineered" getting onto the inner tube by forcing the inner tube under the water for him to gain leverage over the inner tube. (Marc Valentine's Deposition, at pg. 53:25, 54:9-11).

Appellant M.V.'s testimony demonstrated he was aware of the risks presented by the Endless River as well as the use of inner tubes at this attraction and the risks commonly associated with attractions of this type. Furthermore, Appellant M.V. indicated he was aware of the possibility of an inner tube flipping over or sliding from underneath him as a patron which is a common risk associated with the activity at issue in this case. Appellant M. V. did not provide any evidence that he used his own senses and perception to avoid the risk encountered by getting onto the inner tube safely and securely. Any risks encountered by Appellant M.V. were common or inherent in participating in this attraction. Appellees owed no duty to Appellants to warn of such risks. Therefore, this Trial Court did not err by applying properly the no-duty rule to the instant case and granting Appellees' Motion for Summary Judgment.

**Appellants' second issue regarding no statutorily imposed duty for Appellees' lifeguards and no deviation from an established custom by Appellees' employees:**



Plaintiffs must present actual evidence of the established custom violated with sources present in the record. *Craig* at 378-79. If plaintiffs introduce adequate evidence that the amusement facility or operator “deviated in some relevant respect from established custom,” then the no-duty rule does not apply and the case will proceed to the jury. *Id.* at 378. Plaintiffs cannot baldly assert customs or duties exist without the presentation of evidence in support. *Id.*

This Trial Court has scoured the legislative law and case law for applicable guidance. The Pennsylvania Legislature has only codified two sections: maintaining an adequate number of lifeguards be present at recreational swimming establishments and qualifying lifeguards by certifying them to perform their duties. 35 P.S. §675.1 and 28 Pa. Code §18.42. However, no Pennsylvania statute imposes a duty as alleged by Appellants making lifeguards or amusement park establishments liable for not assisting patrons onto and off of inner tubes.

Moreover, Appellant M.V. testified he observed employees of the Endless River aiding riders onto and off inner tubes. (Mr. Valentine’s Deposition, pg. 29:5-30:6). Appellant M.V. further testified the employees were also collecting the accumulating inner tubes to provide to riders of the Endless River. (Mr. Valentine’s Deposition, pg. 40:10-14; 41:5-9). Appellant M.V. stated: “They were more or less stopping inner tubes, like stabilizing inner tubes.” *Id.* Appellant M.V. testified: “I mean, they weren’t grabbing people, placing them on inner tubes. But they were helping stabilize the inner tube.” (Mr. Valentine’s Deposition, pg. 32:18-20).

Appellant J.V. contradicted her own husband’s testimony. In her deposition, Appellant J.V. stated the employees were grabbing the inner tubes from the river and handing the inner tubes to patrons waiting in line. (Mrs. Valentine’s Deposition, May 13, 2019, at pg. 20:11-15). Furthermore, Appellant J.V. did not see any employees assisting the customers or patrons onto the inner tubes. (Mrs. Valentine’s Deposition, at pg. 22:12-21).

Appellees provided evidence that Waldameer Park and Water World posted a number of signs regarding “rules” throughout their amusement park. At the entrance of Water World, Appellees’ sign stated: “Elderly person, pregnant women, persons with back troubles, those with a heart problem, overweight and out of shape person, etc. are advised not to ride slides.” (Defendant’s Exhibit 4). Appellees’ sign at the entrance to the Endless River also stated: “Children under 42” tall must be with an adult & wear a complimentary life vest.” (Defendant’s Exhibit 4). With these signs, Appellees established a series of rules and regulations governing conduct within their amusement park, thereby placing patrons on notice of such rules and regulations as well as the conduct expected within the park. No signs made any references to lifeguards assisting patrons onto inner tubes or onto rides within Water World.

In the instant case, Appellants failed to provide any Pennsylvania statutory law or case law of a duty that requires lifeguards to assist patrons in getting onto or off inner tubes. Instead Appellants cited to Lifeguard rules under the American Red Cross which are not mandated by law. By Pennsylvania law, Appellees’ lifeguards have no duty to assist patrons onto and off rides at their amusement park. Appellants failed to prove this case is exempt from the application of the no-duty rule. Therefore, this Trial Court did not err by finding Appellants failed to prove a statutorily imposed duty of Appellees’ lifeguards existed and that Appellees’ lifeguards did not deviate from an established custom and, therefore, this Trial Court properly granted Appellees’ Motion for Summary Judgment on this issue.

**Appellants’ third issue regarding premises liability:** Under Pennsylvania Rule of

Civil Procedure 1019(a), “The material facts on which a cause of action or defense is based shall be stated in a concise and summary form.” The purpose of Pa.R.C.P. 1019 is to have the pleader disclose sufficient facts to notify the adverse party of the claims to which the adverse party will be required to defend against. *Commonwealth by Shapiro v. Golden Gale National Senior Care LLC*, 194 A.3d 1010, 1029 (Pa. 2018). The Pennsylvania Supreme Court requires plaintiffs satisfy two conditions: “the pleadings must adequately explain the nature of the claim to the opposing party so as to permit him to prepare a defense,” and the pleadings “must be sufficient to convince the court that the averments are not merely subterfuge.” *In re Estate of Schofield*, 477 A.2d 473, 477 (Pa. 1984).

In the instant case, the Pennsylvania Department of Agriculture is tasked with enforcing the Amusement Ride Inspection Act as well as “prescribing safety standards relating to the operation and maintenance of amusement rides or attractions.” 4 P.S. §404(1-2). Under the Amusement Ride Inspection Act, a “qualified inspector” shall inspect “any amusement park ride and attraction on a monthly basis.” 4 P.S. §407(a)(1).

Paragraph fifty (50) of Appellants’ Complaint states: “Plaintiffs were business invitees of the Co-Defendants paid to enter onto the Defendant’s property being assured of a safe and well-maintained and supervised recreational area.” (Plaintiff’s Complaint, ¶50). This Paragraph is not pled sufficiently in that it is difficult to discern whether this Paragraph is a factual allegation or a notice to defend against a possible premises liability claim. Paragraph 50 also lacks a causal connection in that Appellants have failed to allege a causal connection between the alleged unsafe premises and the injuries sustained to Appellant M.V. Therefore, Paragraph 50 of Appellants’ Complaint failed to state with any specific details as to how Appellees were negligent in maintaining the Endless River.

Furthermore, Appellants have failed to set forth specific facts and evidence in their subsequent pleadings that Appellees’ were negligent in their maintenance of the Endless River attraction. Appellant M.V. testified at his deposition the water was “kind of like dirty-ish,” but acknowledged the fact trees lined the Endless River and there were leaves in the water. (Mr. Valentine’s Deposition, pg. 44:12-15). Appellant M.V. further testified he slipped on some silt, but was unable to determine if it was “paint silt” or “dirt silt.” (Mr. Valentine’s Deposition, pg. 62:14-16).

To the contrary, Appellees’ evidence demonstrated the Endless River attraction was inspected for purposes of compliance with reporting to the Pennsylvania Department of Agriculture. The Endless River ride was inspected on May 26, 2016, June 26, 2016, July 24, 2016, and August 19, 2016. (Defendant’s Exhibits 6 and 7). Stephen Gorman, a certified inspector by the Pennsylvania Department of Agriculture, inspected the Endless River on these days in compliance with the State requirements. (*Id.*). The Endless River attraction was also inspected on the day of the alleged incident for water clarity, objects/debris on the bottom of the river, and around the drains of the attraction. (Defendants Exhibit 9). Furthermore, evidence was presented that a net was placed to collect debris from the Endless River that accumulated overnight. (Defendant’s Exhibit 8).

After a thorough review of Appellants’ Complaint and the entire record, this Trial Court found that Appellants provided no facts or evidence to assert a claim that Appellees’ premises were unsafe or unmaintained. Appellants also have failed to provide evidence the Endless River was unsafe for use by patrons and that Appellees were negligent in maintaining

the Endless River attraction. Therefore, this Trial Court did not err in granting Summary Judgment for Appellees where Appellants' Complaint failed to state clearly any allegations of premises liability.

**The fourth issue regarding Appellants' waiver of the Comparative Negligence Act and ASTM Committee Standard F770-15:** Appellants failed to raise any issue regarding the Comparative Negligence Act and the ASTM Committee Standard F770-15 in the lower court and, therefore, waived these issues raised for the first time for appellate review. Pennsylvania Rule of Appellate Procedure Rule 302(a) states: "Issues not raised in the lower court are waived and cannot be raised for the first time on appeal." *See also Frempong v. Richardson*, 209 A.2d 1006, 1006 (Pa. Super. 2019).

Pa.R.A.P. Rule 302 is clear and explicit in that Appellants are not permitted to raise issues where Appellants did not raise said issues before the lower court. A review of Appellants' "Answer to Defendants' Motion for Summary Judgment" demonstrates Appellants merely made mention of comparative negligence and ASTM Committee Standard F770-15, rather than provide any issue or analysis regarding either comparative negligence or ASTM Committee Standard F770-15 before this Trial Court. Appellants' Concise Statement is the first instance wherein Appellants attempt to raise a comparative negligence issue or ASTM Committee Standard F770-15 issue. This Trial Court has had no opportunity to address either issue below.

Moreover, Appellants' counsel never provided or even showed this Trial Court a copy of the ASTM Committee Standard F770-15 below which Appellants' counsel merely mentions on appeal in his Exhibit List. Appellants' counsel states the ASTM Committee Standard F770-15 "cannot be copied due to the fact that they are protected by copyright law." (Appellants' Matters Complained of Pursuant to the Appeal, p. 9). Appellants' counsel admits the ASTM Committee Standards are proprietary in nature.

Therefore, Appellants' counsel failed to raise either issue on comparative negligence or ASTM Committee Standard F770-15 in the lower court and, therefore, these issues are waived on appeal.

For all of the reasons set forth above, this Trial Court respectfully requests the Pennsylvania Superior Court affirm this Trial Court's Order dated December 9, 2019.

**BY THE COURT**

/s/ **Stephanie Domitrovich, Judge**

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

**MARC VALENTINE AND JOANNE VALENTINE, Appellants**

**v.**

**WALDAMEER PARK AND WATER WORLD, AND WALDAMEER PARK, INC.,  
T/D/B/A WALDAMEER PARK AND WATER WORLD, AND  
WALDAMEER PARK, INC. AND PAUL T. NELSON**

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 45 WDA 2020

Appeal from the Order Entered December 9, 2019

In the Court of Common Pleas of Erie County Civil Division at No(s): 12135-2018

BEFORE: BOWES, J., NICHOLS, J., and McLAUGHLIN, J.

MEMORANDUM BY McLAUGHLIN, J.:

**FILED: JULY 8, 2021**

Marc<sup>1</sup> and Joanne Valentine (individually, "Marc" and "Joanne," collectively, "Valentines") appeal from the order granting summary judgment against them. The Valentines argue the court should not have entered summary judgment because Appellees — Waldameer Park and Water World, and Waldameer Park Inc., t/d/b/a Waldameer Park and Water World, and Waldameer Park, Inc. and Paul T. Nelson (collectively, "Waldameer Park") — owed a duty to the Valentines, and because there were genuine issues of fact about whether Waldameer Park breached that duty. We affirm.

According to the Valentines' Complaint, in August 2016, Marc sustained injuries when he attempted to board an inner tube on a Lazy River amusement ride at Waldameer Park. The Complaint alleges that Waldameer Park's employees "negligently failed to assist and/or help" him get on the inner tube, and negligently "failed to observe" him while he attempted to do so. Complaint at ¶¶ 21-22. As the alleged result of the negligence, Marc's inner tube flipped "in a backward falling motion," resulting in Marc falling backwards and "causing [his] skull, neck, and lower body to strike the concrete base of the Lazy River. ... " *Id.* at ¶¶ 23-24.

The Complaint contained two counts — a negligence count and a loss of consortium count. The negligence count included allegations that the Valentines were "business invitees of [Waldameer Park] paid to enter onto [Waldameer Park's] property being assured of a safe and well-maintained and supervised recreational area[]"; Waldameer Park had a duty to ensure the services operated in a safe manner; Waldameer Park breached that duty "by failing to instruct[,], supervise[,], and monitor [its] employees in assistance of entering the Lazy River amusement ride in a safe and proper manner knowing the inherent dangers that existed"; and the breach caused injury. Complaint at ¶¶ 49-54.

Marc testified at his deposition that he had gotten on inner tubes for similar rides in the

<sup>1</sup> Appellants' brief in places confusingly identifies Marc Valentine as "Anthony Marc Valentine," but in others gives his name as "Marc Valentine." *Compare, e.g.,* Appellants' Br. at 1 *with id.* at 4. However, all documents in the trial court, including the Complaint and order appealed from, state Appellant's name as "Marc Valentine." *See* Complaint, ¶ 5 (giving his name as "Marc T. Valentine"). We will use the same name as the trial court documents.

past. N.T., May 13, 2019, at 34. He testified that while waiting in the line for the Endless River attraction at Waldameer Park, he saw two lifeguards help people by stopping and stabilizing inner tubes. *Id.* at 32. He stated “they weren’t grabbing people, placing them on inner tubes. But they were helping stabilize the inner tube.” *Id.* Valentine testified that he fell over with his first attempt to board the tube. *Id.* at 52. He stated he then asked for help, but the lifeguards laughed. *Id.* at 51. With his next attempt he “over-engineered it,” his foot gave out, he flipped backward, and hit his head on the pool bottom. *Id.* at 53-56. He “got sick to [his] stomach” and did not feel “right,” but he was “stable” and did not tell the lifeguards or any Waldameer Park employees that he had hit his head. *Id.* at 55-57, 77. At her deposition, Joanne testified she saw the lifeguards pushing tubes toward people waiting in line, but did not see them assisting people onto tubes. N.T., May 13, 2019, at 21-22. She and Marc had to get the tubes for their family. *Id.* at 21. She agreed that when Marc fell off the inner tube, he popped right back up. *Id.* at 33.

After discovery, Waldameer Park filed a motion for summary judgment, claiming that under the “no-duty” rule, it did not owe the Valentines a duty because the alleged risks at issue were common, inherent, expected, or frequent risks. Motion for Summary Judgment, filed Aug. 30, 2019, at 11; *see* Trial Court Opinion, filed 12/10/19, at 1-2. It further argued “[the Valentines] failed to set forth statutory or case law imposing a duty of care on [Waldameer Park’s] employees” and they did not satisfy an exception to the no-duty rule because they cannot prove the employees deviated from an established custom or duty. Trial Ct. Op. at 2; Summary Judgment Motion at 11. Waldameer Park also asserted that the Valentines’ Complaint did not contain sufficient allegations to state a claim for premises liability, and argued that they had not presented sufficient evidence of such a cause of action. Summary Judgment Motion at 11.

Following a hearing, the trial court granted Waldameer Park’s Motion for Summary Judgment and dismissed the Valentines’ claims against Waldameer Park with prejudice. The Valentines filed this timely appeal. They raise the following issues:

A. Did the Trial Court err as a matter of law and fact, abuse its discretion in holding that [Waldameer Park] was not under a duty to [the Valentines] based on the facts that the certified life guards breached a duty by not paying attention to [Marc] who was in distress in the water.

B. Did the Trial Court err as a matter of law and fact, abuse its discretion and was arbitrary and capricious by holding that [the Valentines] in addition to statement A that this case presented numerous factual issues that would have to be determined by a jury of [the Valentines’] peers including the application of comparative negligence.

C. Did the Trial Court err as a matter of law and fact and abused its discretion in ignoring state regulations regarding the employment of life guards and thus there was a statutory duty created which the Judge totally ignored by the aforementioned statu[t]e.

D. Did the Trial Court err as a matter of law and fact, abuse its discretion in failing to review the record as to numerous facts that would have precluded the entrance of

a Summary Judgment including finding RR502-RR515<sup>[2]</sup> which is in essence to the proceedings based on the numerous facts before her and the aforementioned issue was not addressed in the Motion for Summary Judgment which is waived.

E. Did the Trial Court err as a matter of law and fact, abuse its discretion in finding that [the Valentines] waived the Comparative Negligent Act and the ASTM Committee F787-15 as [the Valentines] supplied sufficient evidence and that the Court is required to acknowledge any negligent action that the Comparative Negligent Act is the law of the case.

F. Did the Trial Court err in there finding that the Complaint did not state a cause of action and then was an abuse of discretion when there was substantial evidence that should be submitted to the jury and that the determination and the Court[’]s finding under Pa. R.C.P. [R]ule 1019.

G. Did the Trial Court err as a matter of law and fact, abuse its discretion as the pleadings included New Matter and Reply to New Matter are sufficient pleadings.

H. Did the Trial Court err as a matter of law and fact, abuse its discretion that there was no duty to [the Valentines] and failed to note that 7 Pa. Code § 13976 RR498-RR499 (attendants to).

I. Did the Trial Court commit an error when the Court found a factual issue whether [Waldameer Park has] a statutory imposed duty for life guards and whether the employees deviated from the custom RR506-RR507.

Valentine’s Br. at 2-4 (suggested answers omitted).

We are unable to address the Valentines’ appellate issues because of the substantial hindrances posed by their violations of the Pennsylvania Rules of Appellate Procedure. Their most disabling violation is of Rule 2119, which provides that the argument section of an appellate brief “shall be divided into as many parts as there are questions to be argued,” and requires each section to have a “discussion and citation of authorities as are deemed pertinent.” Pa.R.A.P. 2119(a). The failure to follow these instructions constitutes waiver. *See Davis v. Borough of Montrose*, 194 A.3d 597, 610-11 (Pa. Super. 2018). *See also Norman for Estate of Shearlds v. Temple Univ. Health Sys.*, 208 A.3d 1115, 1119 (Pa. Super. 2019) (holding claims waived “because they are undeveloped and lack citation to pertinent legal authority”); *McCabe v. Marywood Univ.*, 166 A.3d 1257, 1264 (Pa. Super. 2017) (finding issue waived where the appellant’s “argument consists of one paragraph with no citation to authority or developed analysis”).

Here, the Valentines’ Statement of Questions Involved lists the above nine questions. The Argument section, however, is not divided into nine sections that correlate with the questions presented. Instead, the Valentines present a single, omnibus argument apparently intended

<sup>2</sup> Reproduced Record 502 to 515 includes the trial court’s opinion addressing the summary judgment motion, the order granting the motion, and a portion of the transcript from the hearing.



to address all nine questions. However, their arguments are insufficiently developed. The only legal citations they offer are for general propositions of the law of summary judgment, save one that seems intended to have something to do with duty of care. *See* Appellants' Br. at 9, 10. However, even that single reference is oblique as the Valentines do not make clear the relevance of the case cited to the argument they are making.

Their brief also cites long portions of the reproduced record in support of a statement, without pinpointing the part of the cited section that supports the statement. In one example, the Valentines state that "there is a factual issue regarding the negligence of the lifeguards as testified to by" the Valentines, and they cite Reproduced Record pages 154-181 and pages 231-247. Valentines' Br. at 10. Those pages contain the entirety of Marc's and Joanne's deposition testimony. The copies of the deposition transcripts in the Reproduced Record are in condensed format, such that there are four pages of deposition testimony to each page of the Reproduced Record. The upshot is that the cited portions amount to approximately 173 pages of testimony, and the Valentines' brief in no way identifies the statements in the depositions that the Valentines contend create a "factual issue regarding the negligence."

To the limited extent we can discern the Valentines' issues — that the court erred in finding no duty existed, the evidence supported a premises liability claim, and there were genuine issues of material fact regarding the lifeguards' conduct and the pool floor — we conclude they are meritless. After a review of the briefs, relevant law, trial court record, and the Honorable Stephanie Domitrivich's trial court opinion, we affirm on the basis of the trial court opinion. *See* Trial Court Opinion, filed 12/10/19, at 2-9.

Order affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 07/08/2021

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**DISSOLUTION NOTICE  
NOTICE OF VOLUNTARY  
DISSOLUTION OF  
LIGHT THE NIGHT  
CANDLE COMPANY, LLC**

Light the Night Candle Company, LLC, a Pennsylvania limited liability company (the “Company”) has elected to voluntarily dissolve and wind up its operations. All persons and businesses having a claim or potential claim against the Company are advised as follows:

1. All claims must be presented in writing and must contain sufficient information reasonably to inform the Company of the identity of the claimant and the substance of the claim.
2. All claims must be mailed to: Light the Night Candle Company, LLC, 6353 Turner Road, Union City, PA 16438
3. The deadline to submit a claim is 120 days from the date of this notice.
4. Any claim not received within 120 days of the date of this notice may be barred.

5. A claim against the Company shall be banned if a legal action to enforce the claim is not commenced within two (2) years of the date of this Notice.

6. The Company may make distributions to other claimants and to members of the Company without further notice to any claimant that does not file a claim.

July 16

**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 April 22, 2021 for Anthony Booser’s Carpentry and Building Services at 2114 Eastern Avenue, Erie, PA 16510. The name and address of each individual interested in the business is Anthony Clinton Booser at 2114 Eastern Avenue, Erie, PA 16510. This was filed in accordance with 54 PaC.S. 311.417.

July 16

**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 April 22, 2021 for The Kelly Bar at 12451 East Lake Rd., North East, PA 16428. The name and address of each individual interested in the business is Gary Miles at 12451 East Lake Rd., North East, PA 16428. This was filed in accordance with 54 PaC.S. 311.417.

July 16

**LEGAL NOTICE**

IN THE MATTER OF PROCEEDINGS BY THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE FOR THE CONDEMNATION OF PROPERTY OF: **THEODORE J. BURBULES; MARGARETT BARNETT AND LEE MCLAURIN; JAMES M. WATFORD, JR.; MELVIN EASTERLING; GINA FRANCO; PAUL KATSADAS AND WILLIAM E. KREMER; JAMES F. EWIAK; GABRIEL ZANDER CORDER; ZAC ASSOCIATES; KAREN J. WASHBURN AND CINDY M. ZEMBROSKI; TONY L. HINTON; JESSE D. AND MONIQUE M. LOCKETT; BENJAMIN F. MOONEY, III; EBONY WELCH; ROBERT M. STURDIVANT; PETER J. STULL, JR. AND CHRISTINA FERRARA; ALIQUÉ JONES; JOSEPH WAYNE AND DARREN D. SIMMONS, OWNERS OR REPUTED OWNER(S)**

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
**DOCKET NOS: 2021-11389; 2021-11390; 2021-11391; 2021-11392; 2021-11393; 2021-11394;  
2021-11395; 2021-11396; 2021-11397; 2021-11398; 2021-11399; 2021-11400; 2021-11401;  
2021-11402; 2021-11403; 2021-11404; 2021-11405; 2021-11438**

**EMINENT DOMAIN  
NOTICE OF CONDEMNATION**

In accordance with Section 305 of the Eminent Domain Code of 1964, Pa. C.S. §305, the Redevelopment Authority of the City of Erie (the “Authority”) hereby notifies the owner(s) or reputed owner(s) (hereinafter “Condemnee(s)”), and any mortgage holder and/or lienholder of record that:

1. The property referenced below has been condemned by the Authority for the purposes of elimination of blight and promotion of urban renewal and rehabilitation pursuant to its authority under the Urban Redevelopment Law at 35 P.S. §§1701, 1712 and 1712.1.
2. A Declaration of Taking was filed on the date referenced below in the Court of Common Pleas of Erie County, Pennsylvania at the term and number referenced below.
3. The filing of the Declaration of Taking and this Notice of Condemnation were authorized by Resolution of the Authority, adopted at a meeting on the date referenced below, and the Resolution may be examined at the office of the Authority set forth in Paragraph 5 below.
4. The Condemnee(s) and the Properties being condemned, including the docket numbers at which the Declarations of Taking were filed, are as follows:

Condemnee(s)	Mortgagee(s) or Lienholder(s) unable to be served	Address of Condemned Property	Tax Index Number of Condemned Property	Court Docket Number	Date of Public Meeting	Declaration of Taking Filing Date
Theodore J. Burbules		1253 East 26th St., Erie, PA	(18) 5140-208	2021-11389	04/14/2021	06/30/21
Margarett Barnett and Lee McLaurin	Erie County Clerk of Courts	2912 Pine Ave., Erie, PA	(18) 5075-204	2021-11390	04/14/2021	06/30/21
James M. Watford, Jr.		405 East 7th St., Erie, PA	(14) 1013-313	2021-11391	04/14/2021	06/30/21
Melvin Easterling		1615 Parade St., Erie, PA	(15) 2025-217	2021-11392	04/14/2021	06/30/21
Gina Franco		620 Wayne St., Erie, PA	(14) 1022-302	2021-11393	04/14/2021	06/30/21
Paul Katsadas and William E. Kremer		814 Wayne St., Erie, PA	(15) 2034-205	2021-11394	04/14/2021	06/30/21
James F. Ewiak		1142 East 21st St., Erie, PA	(18) 5094-220	2021-11395	04/14/2021	06/30/21
Gabriel Zander Corder		2308 Camphausen St., Erie, PA	(18) 5112-204	2021-11396	04/14/2021	06/30/21
Zac Associates	Northwest Savings Bank; Northwest Savings Bank c/o Mark G. Claypool, Esq.	2708 Downing St., Erie, PA	(18) 5121-103	2021-11397	04/14/2021	06/30/21
Karen J. Washburn and Cindy M. Zembroski	U.S. Bank, N.A., Successor Trustee to Bank of America	1958 Prospect St., Erie, PA	(18) 5126-134	2021-11398	04/14/2021	06/30/21
Tony L. Hinton		2053 Warfel St., Erie, PA	(18) 5094-215	2021-11399	04/14/2021	06/30/21
Jesse D. and Monique M. Lockett	Beneficial Consumer Discount Company d/b/a Beneficial Mortgage Co. of PA; Capital One Bank (USA), N.A.; Capital One Bank (USA) N.A. c/o Michael F. Ratchford, Esq.	336 East 23rd St., Erie, PA	(18) 5014-236	2021-11400	04/14/2021	06/30/21
Benjamin F. Mooney, III		102 East 24th St., Erie, PA	(18) 5060-126	2021-11401	04/14/2021	06/30/21
Ebony Welch		552 East 24th St., Erie, PA	(18) 5022-136	2021-11402	04/14/2021	06/30/21

Robert M. Sturdivant	PNC Bank, N.A.	524 East 25th St., Erie, PA	(18) 5023-222	2021-11403	04/14/2021	06/30/21
Peter J. Stull, Jr. and Christina Ferrara	Thomas Horvath; U.S. Attorney's Office; U.S. Attorney General; U.S. Attorney Western District of PA; Internal Revenue Service; Erie County Clerk of Courts	830 East 25th St., Erie, PA	(18) 5035-233	2021-11404	04/14/2021	06/30/21
Alique Jones	Erie County Clerk of Courts; Bauer Properties, LLC	952 West 11th St., Erie, PA	(16) 3046-234	2021-11405	04/14/2021	06/30/21
Joseph Wayne and Darren D. Simmons	Erie County Clerk of Courts	708 Payne St., Erie, PA	(14) 1110-101	2021-11438	04/14/2021	07/02/21

5. The Condemnor is the Redevelopment Authority of the City of Erie, whose offices are located at 626 State Street, Room 107, Erie, PA 16501.

6. The nature of the title acquired in and to the condemned property is fee simple title.

7. The Authority Condemnor has secured the payment of just compensation for the Condemnee(s) by the filing with the Declaration of Taking a bond, without surety, payable to the Commonwealth of Pennsylvania, for the use of the owner of the property interests condemned, the condition of which shall be that the Condemnor shall pay the damages determined by law as authorized by 26 Pa.C.S. §303(a).

8. A detailed written offer of just compensation based on the fair market value of the condemned property, which amount compensates the Condemnee(s) for any loss sustained as a result of the condemnation of the property, has been prepared. Please contact Attorney Eugene C. Sundberg, Jr. at Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507, (814) 456-5301 during normal business hours to receive your written offer of just compensation and/or to review full copies of the Declaration of Taking and Notice of Condemnation.

**IF THE CONDEMNEE(S) WISH TO CHALLENGE THE POWER OR THE RIGHT OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE AS CONDEMNOR TO APPROPRIATE THE CONDEMNED PROPERTY, THE SUFFICIENCY OF THE SECURITY, THE PROCEDURE FOLLOWED BY THE CONDEMNOR, OR THE DECLARATION OF TAKING, THE CONDEMNEE(S) ARE REQUIRED TO FILE PRELIMINARY OBJECTIONS WITHIN THIRTY (30) DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE.**

REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE  
Eugene C. Sundberg, Jr., Esquire, Marsh Schaaf, LLP  
300 State Street, Suite 300, Erie, PA 16507 (814) 456-5301

July 16

# AUDIT LIST NOTICE BY KENNETH J. GAMBLE

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, July 7, 2021** and confirmed Nisi.

**August 18, 2021** 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.

## 2021 ESTATE

182 Joseph R. Soder.....

## ACCOUNTANT

Mark Krysiak, Executor.....

## ATTORNEY

Darlene M. Vlahos, Esq.

KENNETH J. GAMBLE  
Clerk of Records  
Register of Wills &  
Orphans' Court Division

July 16, 23

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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****ANDERSON, THOMAS F., deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Leslie Drumm, 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

**BIDWELL, DONALD E., a/k/a DONALD EUGENE BIDWELL, deceased**

Late of the Borough of Waterford, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Carter J. Bidwell, c/o Herman & Herman, PO Box 455, 114 High Street, Waterford, PA 16411  
*Attorney:* Rebecca A. Herman, Esq., Herman & Herman, PO Box 455, 114 High Street, Waterford, PA 16411

**GIESE, CHARLENE C., a/k/a CHARLENE GIESE, deceased**

Late of Millcreek Township, Erie County  
*Executor:* Mark A. Giese  
*Attorney:* Michael G. Nelson, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**McINTYRE, VICTOR L., deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Karen L. McIntyre, 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

**NOWAK, ETHEL L., a/k/a ETHEL NOWAK, deceased**

Late of the Township of Harborcreek, Erie County, Commonwealth of Pennsylvania  
*Executor:* Mark L. Nowak, 651 W. 7th St., Erie, PA 16502  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**PASSEROTTI, ROBERT L., deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Joan M. Passerotti, 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

**SITTER, NORBERT ANTHONY, JR., a/k/a NORB SITTER, a/k/a NORBERT A. SITTER, a/k/a NORBERT A. SITTER, JR., deceased**

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Michael R. Gerlach, 3211 Hampshire Rd., Erie, PA 16506  
*Attorney:* None

**SLATER, WILLARD E., JR., deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Judith A. Stewart, 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

**WATSON, ANNETTE P., deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Co-executrices:* Diane M. Tatalone, 2308 Rudolph Avenue, Erie, Pennsylvania 16502-1953 and Mary M. Good, 11236 Backus Road, Wattsburg, Pennsylvania 16442-9748  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**WENSEL, THOMAS D., a/k/a DOUGLAS WENSEL, deceased**

Late of the Borough of North East, Erie County, Commonwealth of Pennsylvania  
*Administrator:* Kathryn I. Durst, 1160 Southview Dr., Erie, PA 16509  
*Attorney:* None

**TRUST NOTICES**

Notice is hereby given of the administration of the Trust set forth below. All persons having claims or demands against the decedent are requested to make known the same and all persons indebted to said decedent are required to make payment without delay to the trustees or attorneys named below:

**BERCHTOLD, DAVID, trustee of the BERCHTOLD FAMILY TRUST dated DECEMBER 21, 2018, deceased**

Late of Erie, Erie County, Pennsylvania  
*Successor Trustee:* Brian Berchtold, Berchtold Family Trust, 2831 Highland Road, Erie, PA 16506  
*Attorney:* Michael S. Butler, Esq., Heritage Elder Law & Estate Planning, LLC, 318 South Main Street, Butler, PA 16001

**SECOND PUBLICATION****ANDREWS, JANE L., a/k/a JANE LINDA ANDREWS, deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Susan L. Moyer, 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

**BANKS, ROBERT LOUIS, a/k/a ROBERT L. BANKS, deceased**

Late of the Township of North East, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Donna Banks, c/o Michael A. Agresti, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Michael A. Agresti, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**BRADSHAW, DORIS R., a/k/a DORIS BRADSHAW, deceased**

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

**COWGER, MICHAEL L., deceased**

Late of the Borough of Cranesville, County of Erie, Commonwealth of Pennsylvania  
*Administrator:* Keith Cowger, 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

**HARRISON, THELMA E., deceased**

Late of the Township of McKean, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Michael Harrison, c/o Michael A. Agresti, Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Michael A. Agresti, Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**HAYES, PATRICIA H., a/k/a PATRICIA HAYES, deceased**

Late of the Borough of Girard, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Roger R. Hayes, III, 12946 Lemur Lane, Cypress, TX 77429  
*Attorney:* Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**KIEHLMEIER, WILLIAM C., a/k/a WILLIAM JOSEPH KIEHLMEIER, a/k/a WILLIAM J. KIEHLMEIER, a/k/a WILLIAM KIEHLMEIER, deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* William J. Kiehlmeier, c/o James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509  
*Attorney:* James J. Bruno, Esquire, 3820 Liberty Street, Erie, PA 16509

**MERSKI, WILLIAM F., deceased**

Late of Millcreek Township, Erie County, Pennsylvania  
*Executrix:* Robin Hites, c/o Elizabeth Brew Walbridge, Esq., 4258 W. Lake Road, Erie, PA 16505  
*Attorney:* Elizabeth Brew Walbridge, Esq., 4258 W. Lake Road, Erie, PA 16505

**SCHMITT, JAMES J., a/k/a SCHMITT, JAMES J., SR., deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Patricia A. Slaughter, 5325 Washington Ave., Erie, PA 16509  
*Attorney:* None

**SHENK, MILDRED S., deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Barbara S. McGill, 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

**STEWART, MARY E., a/k/a MARY ELIZABETH STEWART, a/k/a BETH STEWART, deceased**

Late of Girard Borough  
*Executor:* John H. Stewart, c/o Brenc Law, 9630 Moses Road, Springboro, Pennsylvania 16435  
*Attorney:* Andrew S. Brenc, Esquire, 9630 Moses Road, Springboro, Pennsylvania 16435

**WHITE, JANET L., a/k/a JANET LOUISE WHITE, a/k/a JANET WHITE, deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Co-executors:* Christopher L. White and Brent R. White, 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

### THIRD PUBLICATION

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

Late of the Town of Reading, County of Middlesex, Commonwealth of Massachusetts  
*Executrix:* Jill McFadden, c/o Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Melissa L. Larese, Esq., Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

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

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

**CAMILLO, CARMINE, deceased**

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

**CHERVENKA, THOMASINA, deceased**

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

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

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

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

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

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

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

**LOBAUGH, MARK S., deceased**

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

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

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Lynne Martin, c/o John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507  
*Attorney:* John J. Shimek, III, Esquire, Sterrett Mott Breski & Shimek, 345 West 6th Street, Erie, PA 16507

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

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

**SHURER, JOHN J., deceased**

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

**SMITH, STEPHEN J., deceased**

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

**YOUNG, STEPHAN, deceased**

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

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## Weekly Wrap-up

July 9, 2021

**Pregnant Workers Fairness Act passes in the House for second time; more likely to become law** - On May 14, 2021, the United States House of Representatives passed the Pregnant Workers Fairness Act (“PWFA” or “HR 1065”) for a second time. With a vote of 315-101, including support from all House Democrats and 99 Republicans, the PWFA now awaits Senate consideration. In the event that the PWFA is enacted, employers will need to review and update their workplace policies and procedures to ensure compliance with the new law. Because the PWFA largely tracks the ADA, employers should already be familiar with the requirements to engage in the “interactive process” and to determine the reasonable accommodations that will suit a pregnant employee’s needs, while avoiding undue hardship to the employer. Many employers are considering remote work as a reasonable accommodation in the context of disability, religious, and pregnancy accommodations. Read more ... <https://www.natlawreview.com/article/pregnant-workers-fairness-act-passes-house-second-time-more-likely-to-become-law>

**Delaware County’s hired guns will receive 25% of recovery in PFAs case** - Delaware County is pursuing legal action against more than two dozen companies it accuses of polluting its groundwater through the use of its products containing per- and polyfluoroalkyl substances (PFAS), with private counsel attached to the case to receive a 25 percent contingency fee from any damages recovered. Read more ... <https://pennrecord.com/stories/604340702-delaware-county-s-hired-guns-will-receive-25-of-recovery-in-pfas-case>

**PA Department Of Education Provides Information On New Law That Allows Grade Level Retainment** - The Pennsylvania Department of Education (PDE) provided information on a new law that permits parents, guardians, and students over the age of 18 to elect to have their children or themselves repeat their grade because of the COVID-19 pandemic. Governor Wolf signed Act 66 of 2021 into law allowing students who were enrolled during the 2020-21 school year to repeat their grade level to make up for any learning loss due to the pandemic, even if the student met requirements to be promoted to the next grade level. Additionally, Act 66 allows students with disabilities who were enrolled during the 2020-21 school year to attend a school during the 2021-22 school year and receive services detailed on their most recent Individualized Education Program (IEP) with full protections under the Individuals with Disabilities Education Act (IDEA). These students are defined as those who turned 21 during the 2020-21 school year or turned 21 between the end of the 2020-21 school year and the beginning of the 2021-22 school year. Read more ... <https://pennrecord.com/stories/605709487-pennsylvania-governor-s-office-department-of-education-provides-information-on-new-law-that-allows-grade-level-retainment>

**Trump-Era EEOC Conciliation Rule Repealed** - On June 30, 2021, President Biden signed a joint resolution narrowly passed by Congress to repeal a Trump-era rule that would have increased the EEOC’s information-sharing requirements during the statutorily mandated conciliation process. Under the Trump-era rule, the EEOC would have been required to give each employer the identity of the complainant, a written summary of the facts of the case, its legal bases for finding discrimination, and the criteria it would use to identify potential class members, as well as an estimate of the potential class size, if applicable. Read more ... <https://www.natlawreview.com/article/trump-era-eeoc-conciliation-rule-repealed>



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