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# ERIE COUNTY LEGAL JOURNAL

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## ERIE COUNTY LEGAL JOURNAL

Reporting Decisions of the Courts of Erie County  
The Sixth Judicial District of Pennsylvania

Managing Editor: Megan E. Anthony

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### MONDAY, NOVEMBER 15, 2021

Diversity & Inclusion Section  
Leadership Meeting  
Noon  
ECBA Headquarters in-person (must RSVP)  
or via Zoom

### MONDAY, NOVEMBER 15, 2021

Diversity & Inclusion Section  
Community Subcommittee Meeting  
4:00 p.m.  
ECBA Headquarters in-person (must RSVP)  
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### TUESDAY, NOVEMBER 16, 2021

LAVA Committee Meeting  
Noon  
ECBA Headquarters in-person (must RSVP)  
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### WEDNESDAY, NOVEMBER 17, 2021

Women's Division Meeting  
Noon  
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or via Zoom

### THURSDAY, NOVEMBER 18, 2021

Live ECBA Lunch-n-Learn Seminar  
*Counseling in Custody Cases*  
Noon - 1:00 p.m.  
The Will J. Schaaf & Mary B. Schaaf  
Education Center in-person or via Zoom  
*Click link for details*  
<https://www.eriebar.com/events/public-registration/1744>

### THURSDAY, NOVEMBER 18, 2021

Defense Bar Section Meeting  
4:00 p.m.  
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### FRIDAY, NOVEMBER 19, 2021

Bench Bar Committee Meeting  
Noon  
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### MONDAY, NOVEMBER 22, 2021

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

### MONDAY, NOVEMBER 22, 2021

Law Day Committee Meeting  
4:00 p.m.  
ECBA Headquarters live (must RSVP)  
or via Zoom

### TUESDAY, NOVEMBER 23, 2021

Solo/Small Firms Division Meeting  
Noon  
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MANDY M. MILANI

v.

LEVI KALKA

*EVIDENCE*

“Preponderance of evidence” standard is defined as the greater weight of the evidence.

*PROTECTION OF ENDANGERED PERSONS*

In the context of a protection from abuse case, the court’s objective is to determine whether the victim is in reasonable fear of imminent serious bodily injury.

*PROTECTION OF ENDANGERED PERSONS*

When faced with a sufficiency challenge under the PFA Act, the evidence is viewed in the light most favorable to the petitioner with the benefit of all reasonable inferences. The appellate court then determines whether the evidence was sufficient to sustain the trial court’s conclusion by a preponderance of the evidence.

*PROTECTION OF ENDANGERED PERSONS*

The aim of the PFA Act is to protect victims of domestic violence from perpetrators of abuse as a means of “advance prevention of physical and sexual abuse.”

*PROTECTION OF ENDANGERED PERSONS*

“Abuse” is defined as an act between intimate partners that places a petitioner in reasonable fear of imminent serious bodily injury. 23 Pa.C.S. §6102(a).

*PROTECTION OF ENDANGERED PERSONS*

As to the sufficiency of the evidence, the evidence is reviewed “in the light most favorable to the petitioner and granting her the benefit of all reasonable inference,” to determine whether a petitioner has met her burden of proof by a preponderance of the evidence that petitioner is in reasonable fear of imminent serious bodily injury from respondent.

*PROTECTION OF ENDANGERED PERSONS / EVIDENCE*

Applying criminal cases or criminal concepts to civil PFA proceedings would be improper or “misplaced” since criminal cases focus on the intent of the perpetrator, not on a victim’s response to a perpetrator’s actions.

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
CIVIL COURT DIVISION  
NO. 16419 OF 2021  
1091 WDA 2021

Appearances: Levi Kalka, pro se  
Patrick W. Kelley, Esquire, on behalf of Appellee, Mandy M. Milani

**OPINION**

Domitrovich, J., November 3, 2021  
On September 10, 2021, Appellant, Levi Kalka, [hereinafter Appellant], filed a Notice of Appeal *pro se* from this Trial Court’s Final Order entered against him on August 12, 2021, granting relief sought by his former girlfriend, Mandy M. Milani [hereinafter Appellee],

pursuant to the Protection from Abuse Act [hereinafter “PFA Act”] at 23 Pa.C.S. §§ 6101 et seq., after a full hearing.<sup>1</sup>

On September 16, 2021, this Trial Court directed Appellant to file a Concise Statement of Matters on Appeal. Appellant filed a timely *pro se* Statement of Matters Complained of on Appeal on October 7, 2021; however, Appellant did not serve this Trial Court with his Statement of Matters Complained of on Appeal until October 11, 2021. Within his Statement, Appellant’s “matters” are in four lengthy, convoluted paragraphs that this Trial Court has discerned as his “issues”:

1. Appellant’s third “statement” [labeled as “Mistake of Fact — restrain for protection”] challenges the sufficiency of Appellee’s evidence that Appellant placed her in reasonable fear of bodily injury; and
2. Appellant’s remaining first, second and fourth statements are **unpreserved** tangential “issues”:
  - (a) Constitutionality of federal and state statutes mandating seizure of Appellant’s firearms during the existence of a Final Protection from Abuse Order;
  - (b) Applicability of mens rea to this civil action; and
  - (c) Relevance, if any, of Appellant’s claim of alleged perjury.

Procedurally, on August 3, 2021, Appellee filed a Protection from Abuse Petition, alleging various acts of physical and emotional abuse by the Appellant. A Temporary Protection from Abuse Order was granted on August 3, 2021, by another Trial Court judge, against Appellant pending a Final Hearing. On August 12, 2021, a Final Hearing was held before this Trial Court. Both parties appeared and testified. Appellant *pro se* appeared in-person. Appellee, Mandy Milani, appeared in-person represented by counsel, Patrick W. Kelley, Esquire. Both parties testified, presented evidence and argued.

When faced with a sufficiency challenge under the PFA Act, the evidence is viewed in the light most favorable to the petitioner with the benefit of all reasonable inferences. The appellate court then determines whether the evidence was sufficient to sustain the trial court’s conclusion by a preponderance of the evidence. *Custer v. Cochran*, 933 A.2d 1050, 1058 (Pa.Super.2007) (en banc), citing *Hood-O’Hara v. Wills*, 873 A.2d 757, 760 (Pa.Super.2005). A petitioner’s testimony is sufficient if it is believed by the trial court. *Id.* The role of the trial court is to make credibility determinations and apply the preponderance of the evidence standard. The preponderance of the evidence standard is defined as the moving party or petitioner proving her case by the greater weight of the evidence through tipping the scale slightly in her favor by a mere scintilla of the evidence over the opposing party. *Ferri v. Ferri*, 854 A.2d 600, 603 (Pa.Super.2004).

The aim of the PFA Act is to protect victims of domestic violence from perpetrators of abuse as a means of “advance prevention of physical and sexual abuse.” *Mescanti v. Mescanti*, 956 A.2d 1017, 1022 (Pa.Super.2008), citing to *Custer v. Cochran*, 933 A.2d 1050, 1054 (Pa.Super.2007). As applied to the instant case, “abuse” is defined as an act between intimate partners that places a petitioner in reasonable fear of imminent serious

<sup>1</sup> As noted in this Trial Court’s 1925 (b) Appeal Order, Appellant did not timely serve this Trial Court with his Notice of Appeal until after this Trial Court discovered on its own that Appellant filed a Notice of Appeal. Appellant then served this Trial Court afterwards with a copy of the Notice of Appeal on September 21, 2021, eleven days thereafter.



bodily injury. 23 Pa.C.S. §6102(a). The court must determine whether a petitioner is in reasonable fear of imminent serious bodily injury. “In the context of a PFA case, the court’s objective is to determine whether the victim is in reasonable fear of imminent serious bodily injury.... Appellant’s intent is of no moment.” *Raker supra*, at 725. As to the sufficiency of the evidence, the evidence is reviewed “in the light most favorable to the petitioner and granting her the benefit of all reasonable inference,” to determine whether a petitioner has met her burden of proof by a preponderance of the evidence that petitioner is in reasonable fear of imminent serious bodily injury from respondent. *Raker supra* at 724, citing to *Fonner v. Fonner*, 731 A.2d. 160, 161 (Pa.Super.1999).

The hearing on August 12, 2021 produced the following evidence: The parties did not reside together and maintained separate residences. They had been dating for four to five months. On August 1, 2021, after Appellee finished work, Appellee arrived at Appellant’s house at about 1:00 a.m. and soon thereafter, an argument commenced. Unexpectedly, when the Appellant and Appellee were watching a television show, which had nothing to do with religion, an intoxicated Appellant ranted to Appellee as to “why Jesus died, who Jesus died for and — or who killed Jesus is exactly what he asked [Appellee].” *N.T., p. 10: 18-20*. Appellant argued Appellee’s ethnic and religious background were responsible for Jesus’s death, and Appellant then referred to Appellee as “a piece of sh\*\*” and an idiot” for not believing that. *N.T., p. 11: 3-6*.

Appellant had drank a beer and a mixed drink, and Appellant continued to drink after Appellee arrived. Appellee “actually attempted to open a drink and [Appellant] took it and put it in his cup and drank the whole thing.” *N.T., p. 12: 5-6*. Appellant’s accusations escalated into aspersions against Appellee’s family as “nothing but a bunch of pieces of sh\*\*,” her brothers as “garbage,” her father as “worthless,” and her family members as being shameful. *N.T., p. 12: 9-12*. Appellee then “got mad” and “threw [her] glass of water ... in his face and [Appellant] immediately attacked [her].” *N.T., p. 12: 12-14*. Events escalated immediately, and Appellee described in detail the nature of Appellant’s physical attacks on her:

APPELLEE: He charged at me and pinned me in the corner of the couch. He had both of his legs on my knees and he would not let go of my wrists and he was nose-to-nose screaming in my face, spiting (*sic*) in my face. He then picked me up and slammed me on the coffee table, which is where I got the bruises on my back from. From there he picked me up and got me on the ground on top of me, and that’s when it was getting worse. And he would not let go of me. Now mind you, now he has me on the ground and he is completely on top of me. *N.T., p. 12: 17-25; p. 13:1*.

COUNSEL: While he had you on the ground, did he threaten you verbally while he was physically assaulting you?

APPELLEE: Yes, he said I should just kill you. *N.T., p. 13: 2-4*.

COUNSEL: Did you — I know this is a strange question, but did you ask him, please stop; please get off of me?

APPELLEE: Yes, I was begging him.

COUNSEL: Did he stop? Did he get off of you?

APPELLEE: No, he did not, he got louder. And like I said, he was nose-to-nose, he was spitting in my face.

COUNSEL: After he said that he should just kill you, did he continue with any physical aggression?

APPELLEE: Yes. He still wouldn’t let go of my wrists and he was just squeezing tighter and tighter. And he let go of my left wrist and his fist went back. And the second he let go of my left wrist, I hit him in the face to get away from him. And when that happened, it escalated and got even worse. And that’s when he literally picked me up, slammed me against the corner of the wall and like scraped down my face, which is where all the scratches came from. And I was bleeding some. And then he lifted his right knee into my gut and called me a f\*\*\*ing c\*\*t. And said, you’re never going to get away from me and wrapped his arms around — his hands around my neck. And I had to pry his hands from my neck. And I was lucky enough to do that and I got out of there. *N.T., p. 13: 5-25*.

Appellee offered into evidence Plaintiff’s Exhibits A-1, A-2, A-11, and A-12, photographs of her injuries taken two days after the incident at the PFA Office. All of these Exhibits were admitted into the Record, without any objection by Appellant. As depicted in the photographs, Appellee described her injuries in detail as inflicted by Appellant on her:

“Scratch marks. That’s where I was bleeding initially. And that’s the bruise — that’s one of the bruises. That was on my back, which is — that’s exactly where the top of my — like right by the top of my spine is where that bruise is, which is where I initially hit the coffee table.... [The scratches on Appellee’s face] happened when he pinned me against the wall in the kitchen.” *N.T., p. 14: 14-19; p. 14: 25; p. 15:1*.

COUNSEL: So all of these injuries depicted in these photographs were inflicted by [Appellant]?

APPELLEE: Absolutely.  
*N.T. p. 15: 2-4.*

.....

COUNSEL: So the wounds that you received in those four pictures, they healed on their own?

APPELLEE: Yes.

COUNSEL: Do you have any lingering effects, physically, from the attack?

APPELLEE: No, I do not.

COUNSEL: But what about mentally?

APPELLEE: Yes.

COUNSEL: How is it affecting you now mentally?

APPELLEE: I have never been more emotionally abused in my life.

COUNSEL: In addition to the emotional abuse, are you afraid for your physical safety because of the events that occurred on this evening?

APPELLEE: Yes.  
*N.T., p. 17: 2-16.*

After Appellee was able to get away from Appellant that evening, Appellee pulled her car into the Country Fair convenience store parking lot and telephoned 911 who in turn “sent the officers.” *N.T.*, p. 15: 14-19. Two officers arrived, and when Appellant called Appellee at 4:06 a.m., an officer asked if he could pick up the phone and then answered her phone. Appellant and the officer talked on the phone for six to eight minutes or ten minutes maybe. Appellee could not initially hear the conversation between the police officer since she was talking to another officer. The second officer had walked away with the phone ten feet away from Appellee, but the officer immediately told her when he got off the phone that Appellant appeared extremely intoxicated and Appellant did not remember what happened. *N.T.*, p. 16: 1-14.

Appellee later stated in her testimony the officers told Appellant to stop contacting Appellee because she showed the officers all of the text messages that Appellant kept sending her, “like one after another after another.” *N.T.*, p. 18: 19-22. And Appellee kept telling Appellant to “leave me alone, leave me alone, leave me alone.” *N.T.*, p. 18: 22-23. Appellant’s father followed Appellee home from Country Fair to make sure she “was okay.” *N.T.*, p. 18:25. However, Appellant “continued to text [Appellee] for two and a half hours and the texts got worse.” *N.T.*, p. 18: 25; *N.T.*, p. 19: 1.

Appellee offered into evidence “Plaintiff’s Exhibits A-4 through A-10,” which are copies of the various text messages between Appellant and Appellee after Appellee left Appellant’s home. “Plaintiff’s Exhibits A-4 through A-10 “which were admitted without objection by Appellant depict Appellant’s continuing text messages to Appellee before and after the police officers cautioned him to stop texting Appellee. One of Appellant’s text messages included Appellant’s threat to shoot the Appellee, “You left your keys to my apartment. Don’t come back. I will shoot on sight.” Plaintiff’s Exhibit A-10. *N.T.*, p. 19: 4-5.

Appellee also recounted past similar types of abuse with Appellant. The week before this current event, Appellant walked into the apartment after she arrived home after work. Appellant “was on a boat all day hanging out with his friends, and [Appellant] was so highly intoxicated and had made irrational comments that didn’t make sense.” *N.T.*, p. 17: 19-23. Appellant said, “like f\*\*k your daughter, blah, blah, here and there.” *N.T.*, p. 17: 23-24. Appellee left that night, “[b]ut before that, there was never really any arguing.” *N.T.*, p. 17: 24-25. Appellee stated when Appellant “would get drunk, he would get more aggressive in terms of his voice would get louder and louder.” *N.T.*, p. 17: 25; p. 18: 1-2. Appellee would try to calm Appellant down and ask him why he was so angry. *N.T.*, p. 18: 2-3.

In the reading of the rights, Appellant had been warned about testifying in the colloquy of rights. Moreover, since Appellee testified the police filed criminal charges against Appellant and she was filing a private criminal complaint against Appellant, this Trial Court cautioned Appellant about incriminating himself. Appellant chose to testify. Appellant testified he received a text from Appellee around 10:40 p.m. that night saying Appellee had just worked a double shift and she wanted to meet him at his apartment that night. Appellant testified he asked her not to get mad at him because he had no wine for her. He testified she persisted about the wine but he explained the stores were closed for wine sales and besides he had only “\$1 in cash \$3 in the bank account.” *N.T.*, p. 20: 14. Appellant also testified he had no alcohol in his apartment. Appellant testified “I was at my mother’s house helping her with some stuff and I had to do a seminar for one of her classes.” *N.T.*, p.20: 20-22.

Appellant testified Appellee arrived at his apartment at 1:00 a.m. and they both started to

have a few drinks that she brought which was a case of Blue Moon and two small Smirnoff Ice smashes. Appellant testified he was “getting a bit irritated that [he] was doing another assignment for her again, because [he] did the majority of her course assignments last semester.” *N.T.*, p. 21: 6-9. Appellant testified they agreed he was only helping her with her math assignments this semester. Appellant testified their discussion elevated about her doing her own assignments and she called him a German which he testified she frequently did so and he found her calling him a German was “insulting.” *N.T.*, p. 21: 12-16. Appellant testified how he explained to Appellee she was Italian and how the Romans killed Jesus. He testified, “how classifying someone or calling them by a certain ethnicity is insulting.” *N.T.*, p. 21: 21-22.

Appellant testified the conversation escalated and how he was omitting certain specific details but then testified, “about an event involving her and her daughter, which triggered her and she threw her drink in my face and slapped me.” *N.T.*, p. 22: 5- 8. Appellant testified, “[i]t got out of control and [he] attempted to restrain her, in which she slipped loose and then started to hit [him] repeatedly in [his] face.” *N.T.*, p. 22: 8-10. Appellant testified, “I restrained her against the couch and I was screaming at her telling her to stop. And then once I realized I was bleeding, quite extensively from the upper part of my mouth, I let her go and I walked over to the kitchen sink to try and clean the bleeding.” *N.T.*, p. 22: 11-16. Appellant testified, “while I was at the sink she went into the bathroom, changed out of my clothes that she had put on back into her own clothes, gathered her bag and some of her other things, took my apartment keys off of her car keys and hung them up on my key rack and then she left.” *N.T.*, p. 22: 17-22.

Appellant admitted he continued to text Appellee repeatedly, “many times, admittedly saying some stupid things.” *N.T.*, p. 22: 23-24. Appellant continued “to call her repeatedly and a man [the police officer] picked up the phone, whom I thought was her brother pretending to be an officer. I told the man that [I] would stop trying to call her, because he asked me to. And then after that call I sent a few more messages and that was how it ended.” *N.T.*, p. 22: 24-25; p. 23: 1-5. Appellant testified he “was only trying to restrain her for self-protection and I was never trying to prevent her from leaving my apartment at all.” *N.T.*, p. 23: 5-8.

On cross-examination, Appellant testified that this “was both of our faults.” *N.T.*, p. 23: 17. Appellant testified he did pin down Appellee at some point, which was not an act of aggression meant to intimidate her or to inflict physical harm. Appellant testified he “was restraining her before — because I didn’t want her to keep hitting me.” *N.T.*, p. 24: 20-21. Appellant testified he had “picture evidence of the injuries I sustained.” *N.T.*, p. 24: 23-24. Appellant testified he had not been drinking before Appellee’s arrival as he was at his mother’s house. Appellant admitted he saw the photographs of Appellee’s injuries but Appellant testified he was not sure of whether Appellee’s injuries were a result of his inflicting those injuries on her. *N.T.*, p. 26: 5-11. Appellant testified he had a photograph of his lip for the Trial court to review. Despite Appellee’s counsel’s objection, this Trial Court admitted Appellant’s photographs labeled “Defendant’s Exhibits 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 1-8 and 1-9.”

Appellee on redirect stated Appellant had a box of wine at his home on the day before this incident and Appellee assumed he drank that box of wine if he is now testifying there was not any wine at his house when she arrived at his house.

In turn, Appellant testified and argued Appellee was not at his apartment for four days prior to August 1st because she had her daughter with her and was working night shifts so she was not staying with him.

In this instant case, as to Appellant's claim regarding the sufficiency of the evidence, this Trial Court observed and listened to the testimony, reviewed all of the evidence and weighed all testimony and evidence to make credibility determinations. Appellee accurately described her injuries as corroborated by the photographs in her Exhibits. *N.T.*, p. 15: 2-4. Her repeated requests to Appellant to stop contacting her were confirmed in the text messages. *See Plaintiff's Exhibits A-5, A-6 and A-7*. As to Appellant, he claimed he did not know how Appellee sustained the injuries depicted in the photographs. *N.T.*, p. 26: 8-11. Appellant did not deny he sent Appellee a threatening text to shoot her. Appellant minimized the serious and harassing nature of his threats via text by referring to his own text messages as "stupid things." *N.T.*, p. 22: 24.

Viewing the above evidence in the light most favorable to Appellee with the benefit of all reasonable inferences, Appellee provided sufficient evidence to sustain her burden of proof by a preponderance of the evidence. This Trial Court had the opportunity of observing in-person the attitudes and demeanors of the parties as witnesses and found Appellee was a more credible witness. Appellee proved Appellant placed her in reasonable fear of imminent serious bodily injury through competent evidence. After a full hearing, this Trial Court appropriately entered this Final PFA order in favor of Appellee and against Appellant for a three (3) year period in order to prohibit Appellant from abusing, harassing, stalking, or threatening Appellee and to forbid Appellant from entering Appellee's residence. Appellant's claim to the contrary as to the sufficiency of the evidence is meritless.

As to Appellant's remaining three "issues," Pa.R.A.P. 302 clearly states issues not raised in the lower court are waived and cannot be raised for the first time on appeal. To preserve an issue for appellate review, a party must make a timely and specific objection at the appropriate stage of the proceedings before the trial court. A party's failure to object timely to a basic and fundamental error results in a waiver of that issue. On appeal, appellate courts will not consider a claim not called to a trial court's attention at a time when any error committed could have been corrected by the trial court. A party must object to "errors, improprieties or irregularities at the earliest stage of the adjudicatory process to afford the jurist hearing the case the first occasion to remedy the wrong and possibly avoid an unnecessary appeal to complain of the matter." *Thompson v. Thompson*, 963 A.2d 474, 475-476 (Pa.Super.2008)(citation omitted). Only claims properly presented in the lower court are preserved for appeal including issues of constitutional dimension. *Coulter v. Ramsden*, 94 A.3d 1080, 1090 (Pa.Super.2014).

In the instant case, Appellant had opportunities to raise issues such as:

THE COURT: So we have all the evidence in; is that correct, sir?

APPELLANT: Yes, ma'am.

*N.T.*, p. 28:8-10.

.....

APPELLANT: Your Honor, can I make a statement?

THE COURT: Sure.

*N.T.*, p. 29: 5-7.

Appellant failed to raise and preserve his three "issues," and, therefore Appellant waived them for purposes of appeal. Moreover, as to "seizure of his firearms" during the three

year time-period of this Final Protection from Abuse Order, federal and state law clearly prohibit Appellant from possessing or acquiring any firearms for the duration of this Order. 23 Pa.C.S. § 6108(a)(7).

Furthermore, Appellant also alleges for the first time on appeal that, "Appellee's counsel attempted to reach an agreement with the [A]ppellant regarding the PFA before initial proceedings in which he stated that a request would be made to allow the appellant to keep his firearms as well as requesting a reduction for the term of the PFA." *See Appellant's Statement of Matters Complained of on Appeal, first paragraph*. The Record herein is devoid of any such discussions with Appellant and Appellee's counsel to resolve this case especially since Appellant requested a hearing. This Trial Court asked Appellant as to whether he would consent to a Final PFA Order without any admission or did he want a hearing. In the instant case, Appellant clearly requested a hearing by stating to this Trial Court, "I want a hearing." *N.T.* p. 8: 24. Any attempts to resolve this case prior to the hearing are not relevant. After a full hearing, this Trial Court determined the outcome of this instant case based on sworn testimony and all other evidence such as Exhibits.

Appellant's next "issue" claims a criminal element of "mens rea for abuse" applies in this civil case. *See Appellant's Statement of Matters Complained of on Appeal, second paragraph*. In the instant case, the Record is devoid of Appellant raising any such issue to this Trial Court. Therefore, Appellant failed to preserve this "issue" for appeal. Moreover, Appellant clearly misapplies the criminal concept of *mens rea* to this civil action in a Final Protection from Abuse proceeding. Applying criminal cases or criminal concepts to civil PFA proceedings would be improper or "misplaced" since criminal cases focus on the intent of the perpetrator, not on a victim's response to a perpetrator's actions. *Raker supra* at 725. "It is hornbook law that *mens rea* is the state of mind a defendant must possess to commit a crime. The term *mens rea* is Latin for guilty mind and is defined as '[t]he state of mind that the prosecution, to secure a conviction, must prove that a defendant had when committing a crime[.]' *Black's Law Dictionary*, (3rd Pocket ed. 2006)." *Commonwealth v. Andre*, 17 A.3d 951, 958 (Pa.Super.2011). *Mens rea* refers to a defendant's specific intent to commit a crime as defined at 18 Pa.C.S. §302.

No criminal intent element is applicable in proceedings under the Protection from Abuse Act, which are clearly civil proceedings. "[T]he [PFA] Act does not seek to determine criminal culpability. A petitioner is not required to establish abuse occurred beyond a reasonable doubt, but only to establish it by a preponderance of the evidence." *K.B. v. Tinsley*, 208 A3d. 128 (Pa.Super.2019), quoting *Snyder v. Snyder*, 427 Pa. Super. 494, 629 A.2d 977, 982 (1983). A "preponderance of the evidence standard is defined as the greater weight of the evidence, i.e., to tip a scale slightly is the criteria or requirement for preponderance of the evidence." *Raker v. Raker*, 847 A.2d 720, 724 (Pa.Super.2004). "In the context of a PFA case, the court's objective is to determine whether the victim is in reasonable fear of imminent serious bodily injury...." *Raker, supra*, at 725, and also *Buchhalter v. Buchhalter*, 959 A.2d 1260, 1263 (Pa.Super.2008). Moreover, "Appellant's intent is of no moment." *Raker, supra* at 725.

In this instant civil case, Appellant's claim as to a *mens rea*, that is, whether Appellant had an intent to inflict injury upon the Appellee, is not applicable and not relevant; Appellant's intent herein is of no moment. After hearing and weighing all testimony and other evidence, this Trial Court followed the law and properly applied the applicable burden of proof of a preponderance of the evidence, and this Trial Court found Appellee met her burden of proof.

This Trial Court then issued the resulting Final Protection from Abuse Order. Appellant's claim of a *mens rea* is inapplicable to this civil case and is, therefore, without any merit.

Appellant's final claim refers to his belief of an alleged perjury regarding Appellee's testimony. Any claim regarding contradictory statements is a challenge to the weight of the evidence. *See Commonwealth v. Antidormi*, 84 A.3d 736 (Pa.Super.2014). Case law clearly indicates, "The weight of the evidence is exclusively for the finder of fact who is free to believe all, part, or none of the evidence and determines the credibility of witnesses." *Commonwealth v. Champney*, 574 Pa. 435, 443, 832 A.2d 403, 408 (2003). The trial court, as fact-finder, determines the credibility of any witnesses and the weight accorded their testimony. *Mescanti v. Mescanti*, 956 A.2d 1017, 1019-1020 (Pa.Super.2008).

In the instant case, this Trial Court, as the trier of fact, listened, observed and weighed the testimony, demeanor and attitudes of both Appellant and Appellee, and also weighed all other evidence. Appellant testified as to his story about the incident, and Appellee stated her story. This Trial Court determined Appellee's testimony was more credible than Appellant's testimony, and Appellee established she was in reasonable fear of imminent serious bodily injury from Appellant and that abuse exists in the instant case pursuant to the Protection from Abuse Act for a Final Order. Appellant now contends for the first time this Trial Court should address his claim of Appellee's alleged perjury for lying "knowingly and intentionally" under oath about being at his house "within a few days" before the alleged event. *See Appellant's Statement of Matters Complained of on Appeal, fourth or last paragraph*. This Trial Court notes the act of lodging any criminal charge including perjury against an alleged actor is clearly within the authority and province of the District Attorney in the Executive Branch, not with a trial court within the Judicial Branch. Appellant's unpreserved claim lacks any merit.

For all of the above reasons, this Trial Court requests the Honorable Judges of the Pennsylvania Superior Court affirm this Trial Court's Final Order of Protection from Abuse in the instant case.

**BY THE COURT**

/s/ **Stephanie Domitrovich, Judge**

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**LEGAL NOTICE**

NOTICE is hereby given pursuant to Section 607(a) of Act No. 81 - 1986 that the Erie County Tax Claim Bureau has presented to the Erie County Court of Common Pleas its consolidated return with regard to real estate tax sales for seated lands and/or mobile homes for unpaid real estate taxes for the years 2019 and prior. This return has been confirmed Nisi by the court on November 2, 2021. Any objections or exceptions to the return may be filed by an owner or lien creditor within 30 days after the court made its confirmation Nisi and if no objections or exceptions are filed the return will be confirmed absolutely. Steven A. Letzelter  
Director of Erie County Tax Claim Bureau  
Erie County Courthouse

Nov. 12

**LEGAL NOTICE**

COURT OF COMMON PLEAS - ERIE COUNTY - NO. 10271-20 - CIVIL ACTION - MORTGAGE FORECLOSURE - Deutsche Bank National Trust Company, as Trustee for First Franklin Mortgage Loan Trust 2006-FF11, Mortgage Pass-through certificates, Series 2006-FF11, Plaintiff vs. James A. Andre, deceased, George Andre, as known heir to the Estate of James A. Andre, Teresa Andre, as known heir to the Estate of James A. Andre and the Unknown heirs to the Estate of James A. Andre, Defendants - NOTICE OF SHERIFF'S SALE OF REAL PROPERTY - To: The Unknown heirs to the Estate of James A. Andre Defendant(s), whose last known address is 433 W. 9th Street, Erie, PA 16502. The real estate located at 433 W. 9th Street, Erie PA 16502, is scheduled to be sold at Sheriff's Sale on 1/21/22 at 10:00 am, in the Erie County Courthouse, Central Ct., 140 W. 6th St., 1st Fl., Erie, PA, to enforce the court judgment of \$57,854.44 plus fees, costs and other charges obtained by Deutsche Bank National Trust Company, as Trustee for First Franklin Mortgage Loan Trust 2006-FF11, Mortgage Pass-Through certificates, Series 2006-FF11, against you. - NOTICE

OF OWNER'S RIGHTS YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE - 1. This sale will be canceled if you pay the judgment to Patrick J. Wesner, Esq., 9000 Midlantic Dr., Ste. 300, P.O. Box 5054, Mt. Laurel, NJ 08054. To find out how much you must pay, you may call 856.810.5815. 2. You may be able to stop the sale by filing a petition asking the court to strike or open the judgment, if the judgment was improperly entered. You may also ask the court to postpone the sale for good cause. 3. You may also be able to stop the sale through other legal proceedings. 4. You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE - 1. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling the Sheriff's Office at 814.451.7012 or Patrick J. Wesner, Esq. at 856.810.5815. 2. You may be able to petition the court to set aside the sale if the bid price was grossly inadequate compared to the value of your property. 3. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened, you may call the Sheriff's Office at 814.451.7012 or Patrick J. Wesner, Esq. at 856.810.5815. 4. If the amount due from the buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened. 5. You have a right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you. 6. You may be entitled to a share of the money which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff on the 30th day after the sale. This schedule will state who will be receiving that money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten

(10) days of the preparation of the schedule of distribution. 7. You may also have other rights and defenses, or ways of getting your house back, if you act immediately after the sale. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE. Lawyer Referral & Info. Service, P.O. Box 1792, Erie, PA 16507, 814.459.4411.

Nov. 12

**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

**NOVEMBER 19, 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

Oct. 29 and Nov. 5, 12

**SALE NO. 1**

**Ex. #11345 of 2021**

**Northwest Bank, Plaintiff**

**v.**

**All Unknown Heirs, Successors, Assigns, and All Persons, Firms or Associations Claiming Right, Title, or Interest from or Under Lawrence K. Mattson, Deceased,**

**and Richard E. Bennett, Deceased, Defendants**

**DESCRIPTION**

By virtue of a Writ of Execution filed at No. 2021-11345, Northwest Bank v. All Unknown Heirs, Successors, Assigns, and All Persons, Firms or Associations Claiming Right, Title, or Interest from or Under Lawrence K. Mattson, Deceased, and Richard E. Bennett, Deceased, owners of

property situated in the Township of Millcreek, Erie County, Pennsylvania being commonly known as 2969 Haas Avenue, Erie, PA with 1,442 square footage and .1033 acreage.

Assessment Map No. (33) 29-63-13 Assessed Value Figure: \$60,570 Improvement thereon: Single family dwelling - Bungalow Mark G. Claypool, Esquire Knox McLaughlin Gornall & Sennett, P. C.

120 West Tenth Street  
Erie, Pennsylvania 16501  
(814) 459-2800

Oct. 29 and Nov. 5, 12

**SALE NO. 3**

**Ex. #10937 of 2021**

**FIRST NATIONAL BANK OF PENNSYLVANIA, Plaintiff**

**v.**

**JOSEPH M. SCHNELL and NICHOLE M. KRAHE, Defendants**

**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10937-2021, First National Bank of Pennsylvania vs. Joseph M. Schnell and Nichole M. Krahe, owner(s) of property situated in the Township of Millcreek, Erie County, Pennsylvania being 302 Greenhurst Drive, Erie, PA 16509 unknown

Assessment Map number: 33-117-497.0-004.15

Assessed Value figure: \$220,300.00 Improvement thereon: single family dwelling

Kristine M. Anthou, Esquire Attorneys for Plaintiff One Gateway Center, Ninth Floor Pittsburgh, PA 15222 (412) 281-7650

Oct. 29 and Nov. 5, 12

**SALE NO. 4**

**Ex. #10403 of 2020**

**Citibank, N.A., not in its individual capacity but solely as Owner Trustee for New Residential Mortgage Loan Trust 2018-5, Plaintiff**

**v.**

**Dennis Sheppard, II and DeJon Sheppard, as Know Surviving Heirs of Sara L. Sheppard,**

**Deceased and Unknown Surviving Heirs of Sara L. Sheppard, Deceased, Defendants DESCRIPTION**

By Virtue of Writ of Execution filed to No. 2020-10403, Citibank, N.A., not in its individual capacity but solely as Owner Trustee for New Residential Mortgage Loan Trust 2018-5 vs. Dennis Sheppard, II and DeJon Sheppard, as Know Surviving Heirs of Sara L. Sheppard, Deceased and Unknown Surviving Heirs of Sara L. Sheppard, Deceased

Sara L. Sheppard, owner(s) of property situated in the City of Erie, Erie County, Pennsylvania being 1214 East 28th Street, Erie, PA 16504

0.0624

Assessment Map number: 18051004012500

Assessed figure: \$74,920.00 Improvement thereon: Single Family Residential Dwelling Hladik, Onorato & Federman, LLP 289 Wissahickon Avenue North Wales, PA 19454 (215) 855-9521

Oct. 29 and Nov. 5, 12

**SALE NO. 5**

**Ex. #11733 of 2018**

**WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF FINANCE OF AMERICA STRUCTURED SECURITIES ACQUISITION TRUST 2018-HB1, Plaintiff**

**v.**

**BRUCE STANKO AKA BRUCE E. STANKO, Defendant DESCRIPTION**

By virtue of a Writ of Execution filed to No. 11733-18, WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE OF FINANCE OF AMERICA STRUCTURED SECURITIES ACQUISITION TRUST 2018-HB1 vs. BRUCE STANKO AKA BRUCE E. STANKO, owner(s) of the property situated in Erie County, Pennsylvania being 4222 WEST LAKE ROAD, ERIE, PA 16505

Assessment Map Number: (33) 019-001.0-075.00

Assessed Value Figure: \$363,900.00

Improvement Thereon:  
A Residential Dwelling  
KML LAW GROUP, P.C.  
ATTORNEY FOR PLAINTIFF  
701 MARKET STREET,  
SUITE 5000  
PHILADELPHIA, PA 19106  
(215) 627-1322

Oct. 29 and Nov. 5, 12

**SALE NO. 6**

**Ex. #11765 of 2017**  
**PENNSYLVANIA HOUSING**  
**FINANCE AGENCY, Plaintiff**

v.

**SHERRIE A. GRADLER AND**  
**CHRISTOPHER J. GRADLER,**  
**Defendants**

**DESCRIPTION**

By virtue of a Writ of Execution No. 2017-11765, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. SHERRIE A. GRADLER AND CHRISTOPHER J. GRADLER, Defendants  
Real Estate: 2666 PUTNAM DRIVE, ERIE, PA 16511  
Municipality: Township of Lawrence Park  
Erie County, Pennsylvania  
Dimensions: 50 x 130  
See Deed Book 1222, page 304  
Tax I.D. (29) 6-12-17  
Assessment: \$21,500 (Land)  
\$74,770 (Bldg)  
Improvement thereon: a residential dwelling house as identified above  
Leon P. Haller, Esquire  
Purcell, Krug & Haller  
1719 North Front Street  
Harrisburg, PA 17104  
(717) 234-4178

Oct. 29 and Nov. 5, 12

**SALE NO. 7**

**Ex. #10543 of 2020**  
**PENNSYLVANIA HOUSING**  
**FINANCE AGENCY, Plaintiff**

v.

**DAVID M. SULLIVAN,**  
**Defendant**

**DESCRIPTION**

By virtue of a Writ of Execution No. 10543-20, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. DAVID M. SULLIVAN, Defendant  
Real Estate: 2117 WEST 33RD STREET, ERIE, PA 16508

Municipality: City of Erie  
Erie County, Pennsylvania  
Dimensions: 50' x 125'  
Deed Book/Inst#: 1088 / 1735  
Tax I.D. (19) 6162-111  
Assessment: \$27,100 (Land)  
\$58,200 (Bldg)  
Improvement thereon: a residential dwelling house as identified above  
Leon P. Haller, Esquire  
Purcell, Krug & Haller  
1719 North Front Street  
Harrisburg, PA 17104  
(717) 234-4178

Oct. 29 and Nov. 5, 12

**SALE NO. 8**

**Ex. #12397 of 2017**

**U.S. BANK NATIONAL**  
**ASSOCIATION, AS TRUSTEE**  
**FOR THE PENNSYLVANIA**  
**HOUSING FINANCE AGENCY,**  
**Plaintiff**

v.

**JONATHAN D. PFISTER,**  
**Defendant(s)**

**DESCRIPTION**

By virtue of a Writ of Execution No. 2017-12397, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. JONATHAN D. PFISTER, Defendant(s)  
Real Estate: 2822 RASPBERRY STREET, ERIE, PA 16508  
Municipality: City of Erie  
Erie County, Pennsylvania  
Dimensions: 40 x 90  
Deed Book/Inst#: 1412 / 727  
Tax I.D. (19) 6218-101  
Assessment: \$15,800 (Land)  
\$57,500 (Bldg)  
Improvement thereon: a residential dwelling house as identified above  
Leon P. Haller, Esquire  
Purcell, Krug & Haller  
1719 North Front Street  
Harrisburg, PA 17104  
(717) 234-4178

Oct. 29 and Nov. 5, 12

**SALE NO. 9**

**Ex. #10310 of 2020**

**PENNSYLVANIA HOUSING**  
**FINANCE AGENCY, Plaintiff**

v.

**JERAMY L. WALBURN,**

**Defendant(s)**  
**DESCRIPTION**

By virtue of a Writ of Execution No. 2020-10310, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. JERAMY L. WALBURN, Defendant(s)  
Real Estate: 4574 STEINBERG ROAD AKA 4574 STEENBERG ROAD, WEST SPRINGFIELD, PA 16443  
Municipality: Springfield Township  
Erie County, Pennsylvania  
Dimensions: 9.72 acres  
Deed Book/Inst#: 2015-008118  
Tax I.D. (39) 16-35-17  
Assessment: \$45,500 (Land)  
\$54,700 (Bldg)  
Improvement thereon: a residential dwelling house as identified above  
Leon P. Haller, Esquire  
Purcell, Krug & Haller  
1719 North Front Street  
Harrisburg, PA 17104  
(717) 234-4178

Oct. 29 and Nov. 5, 12

**SALE NO. 10**

**Ex. #10423 of 2019**

**Deutsche Bank National Trust**  
**Company, as Trustee for**  
**Soundview Home Loan Trust**  
**2006-3, Asset-Backed Certificates,**  
**Series 2006-3, Plaintiff**

v.

**Michelle L. Peters, AKA**  
**Michelle L. Messina, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2019-10423, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-3, Asset-Backed Certificates, Series 2006-3 vs. Michelle L. Peters, AKA Michelle L. Messina, owner(s) of property situated in the Township of Lawrence Park, Erie County, Pennsylvania being 850 Silliman Avenue, Erie, PA 16511  
1,693 sq. ft.  
Assessment Map Number: 29010046000800  
Assessed Value figure: \$95,530.00  
Improvement thereon: Single Family Dwelling  
Joseph E. DeBarberie, Esquire  
Manley Deas Kochalski LLC  
P.O. Box 165028

Columbus, OH 43216-5028  
614-220-5611

Oct. 29 and Nov. 5, 12

**SALE NO. 11**

**Ex. #13138 of 2018**

**Nationstar Mortgage LLC**  
**d/b/a Mr. Cooper as successor**  
**by merger to Pacific Union**  
**Financial, LLC, Plaintiff**

v.

**Andrea M. Wallis, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 13138-18, Nationstar Mortgage LLC d/b/a Mr. Cooper as successor by merger to Pacific Union Financial, LLC v. Andrea M. Wallis, owners of property situated in the Township of Township of Millcreek, Erie County, Pennsylvania being 4065 Sierra Drive, Erie, Pennsylvania 16506.  
Tax I.D. No. 33-085-383.0-002.00  
Assessment: \$190,942.29  
Improvements: Residential Dwelling  
McCabe, Weisberg & Conway, LLC  
123 South Broad Street, Suite 1400  
Philadelphia, PA 19109  
215-790-1010

Oct. 29 and Nov. 5, 12

**SALE NO. 12**

**Ex. #12939 of 2019**

**U.S. Bank Trust National**  
**Association, not in its individual**  
**capacity but solely as Delaware**  
**trustee and U. S. Bank National**  
**Association, not in its individual**  
**capacity but solely as**  
**Co-Trustee for Government Loan**  
**Securitization Trust 2011-FV1,**  
**Plaintiff**

v.

**Noelle M. Mountain a/k/a Noelle**  
**M. Mattix, Individually and as**  
**Heir to the Estate of James P.**  
**Mattix, Deceased and Cameron**  
**J. Mattix, Solely in His capacity**  
**as Heir to the Estate of James**  
**P. Mattix, Deceased and The**  
**Known and Unknown Heirs of**  
**James P. Mattix, Defendants**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 12939-19, U.S. Bank Trust National Association, not in its individual capacity but solely

as Delaware trustee and U. S. Bank National Association, not in its individual capacity but solely as Co-Trustee for Government Loan Securitization Trust 2011-FV1 v. Noelle M. Mountain a/k/a Noelle M. Mattix, Individually and as Heir to the Estate of James P. Mattix, Deceased and Cameron J. Mattix Solely in His capacity as Heir to the Estate of James P. Mattix, Deceased and The Known and Unknown Heirs of James P. Mattix, owner(s) of property situated in City of Erie, Erie County, Pennsylvania being 613 West 22nd Street, Erie, PA 16502  
613 W. 22 ST. 35 X 135 SINGLE FAMILY  
Assessment Map number: 19060018010800  
Assessed Value figure: \$59,100  
Improvement thereon: N/A  
STERN & EISENBERG, PC  
KENYA BATES, ESQUIRE  
1581 MAIN STREET, SUITE 200  
THE SHOPS AT VALLEY SQUARE  
WARRINGTON, PA 18976  
(215) 572-8111  
(COUNSEL FOR PLAINTIFF)

Oct. 29 and Nov. 5, 12

**SALE NO. 13**

**Ex. #12152 of 2020**

**CEPA, LLC, Plaintiff**

v.

**STARWAYS PROPERTY, LLC,**  
**Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2020-12152, CEPA, LLC vs. STARWAYS PROPERTY, LLC, owner(s) of property situated in ERIE, Erie County, Pennsylvania being 8100 PEACH STREET, ERIE, PA 16509  
2.11 ACRES,  
31,386 SQUARE FEET  
Assessment Map number: MAP 16, BLOCK 72, PARCEL 6, ID 40  
Assessed Value figure: \$2,100,000  
Improvement thereon: HOTEL/  
MOTEL LO RISE - MICROTEL  
CHRISTOPHER A. REESE  
2005 MARKET STREET  
SUITE 2600  
PHILADELPHIA, PA 19103  
215-564-8000

Oct. 29 and Nov. 5, 12

**SALE NO. 14**

**Ex. #10709 of 2020**

**Pennsylvania Housing Finance**  
**Agency, Plaintiff**

v.

**Audrey L. Reed, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10709-20, Pennsylvania Housing Finance Agency vs. Audrey L. Reed, owner of property situated in the City of Erie, Erie County, Pennsylvania being: 1618 W. 32nd Street, Erie, PA 16508  
Dimensions: Square Feet: 1,040  
Acreage: 0.2206  
Assessment Map Number: (19)-6229-418  
Assess Value figure: \$91,560.00  
Improvement thereon: Single Family Dwelling  
Lois M. Vitti, Esquire  
Attorney for Plaintiff  
663 Fifth Street  
Oakmont, PA 15139  
(412) 281-1725

Oct. 29 and Nov. 5, 12

**SALE NO. 15**

**Ex. #11224 of 2021**

**LAKEVIEW LOAN**  
**SERVICING LLC, Plaintiff**

v.

**Douglas E. Stone, Defendant**  
**DESCRIPTION**

By virtue of Writ of Execution No. 11224-21, LAKEVIEW LOAN SERVICING LLC v. Douglas E. Stone, 1014 West 35th Street, Sixth Ward of the City of Erie, PA 16508, Tax Parcel No. 19061018022200. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$73,475.75.  
Attorneys for Plaintiff:  
Andrew J. Marley, Esquire  
Stern & Eisenberg, PC  
1581 Main Street, Suite 200  
The Shops at Valley Square  
Warrington, PA 18976  
(215) 572-8111

Oct. 29 and Nov. 5, 12

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814/833-8545

113 Meadville St.  
Edinboro, PA 16412  
814/734-3787

Confidential inquiries by phone or email to [mrsinfo@mrs-co.com](mailto:mrsinfo@mrs-co.com).

**ERIE COUNTY LEGAL JOURNAL**

ORPHANS' COURT

LEGAL NOTICE

ORPHANS' COURT

**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**

**BENACCI, THERESA DeSANIT, a/k/a THERESA M. BENACCI, a/k/a THERESA BENACCI, deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Co-administrators:* David A. Lossie and Paul E. Lossie, c/o Spero Law Office, 3213 West 26th Street, Erie, Pennsylvania 16506  
*Attorney:* Joseph B. Spero, Esquire, Spero Law Office, 3213 West 26th Street, Erie, Pennsylvania 16506

**FELDMILLER, SHIRLEY E., a/k/a SHIRLEY FELDMILLER, deceased**

Late of the Township of Conneaut, County of Erie, Commonwealth of Pennsylvania  
*Executor:* James M. Feldmiller, 75 Market Street, Albion, PA 16401  
*Attorney:* John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**HESS, CYNTHIA M., deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Karen Coleman, 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

**KUBANEY, JUDITH J., a/k/a JUDY KUBANEY, a/k/a JUDITH KUBANEY, deceased**

Late of Fairview Township, Erie County, Pennsylvania  
*Executor:* James M. Kubaney, 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

**McVEY, LEE H., deceased**

Late of Fairview Twp., Erie County, Pennsylvania  
*Executor:* Jeffrey Lee McVey, c/o 213 E. State Street, Kennett Square, PA 19348  
*Attorney:* Edward M. Foley, Esq., Brutscher Foley Milliner Land & Kelly, LLP, 213 E. State Street, Kennett Square, PA 19348

**MOROSKY, WILLIAM PAUL, a/k/a WILLIAM P. MOROSKY, a/k/a WILLIAM MOROSKY, deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Keri A. Vercillo  
*Attorney:* Craig A. Zonna, Esquire, ELDERKIN LAW FIRM, 456 West 6th Street, Erie, PA 16507

**O'SULLIVAN, CAROL R., a/k/a CAROL ROSE O'SULLIVAN, deceased**

Late of the Township of Amity, County of Erie and State of Pennsylvania  
*Executor:* Daniel F. O'Sullivan, 45 Wheatmore Court, Springboro, OH 45066  
*Attorney:* None

**SECOND PUBLICATION**

**BRACE, BRETT A., deceased**

Late of Waterford Borough, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Darrell L. Brace, 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

**DOBMEIER, GERARD J., deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Co-administrators:* Patricia Seapker and Gerard F. Dobmeier, 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

**MALLON, CHRISTINE MARIE, a/k/a CHRISTINE M. MALLON, deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Administratrix:* Jacqueline L. Mallon, 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

**NICK, RODGER E., a/k/a RODGER EVERETT NICK, a/k/a RODGER NICK, deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Ronald E. Nick, 11682 Route 97N, Lot 119, Waterford, PA 16441  
*Attorney:* John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**PAYNE, ERIC T.,  
deceased**

Late of Summit Township, County of Erie, and State of Pennsylvania  
*Administratrix:* Carrie A. Payne, 3755 Hamilton Road, Erie, PA 16510  
*Attorney:* Tina Fryling, Esq., 4402 Peach Street, Suite 3, Erie, PA 16509

**SAUERS-BAKER,  
BARBARA JEAN, a/k/a  
BARBARA J. SAUERS,  
deceased**

Late of the City of Erie, Erie County  
*Administrator:* John W. Baker  
*Attorney:* Rachel A. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**SMITH, MARGARET M., a/k/a  
MARGARET SMITH,  
deceased**

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

**VAN HORN, RICHARD H., a/k/a  
RICHARD VAN HORN,  
deceased**

Late of the City of Erie, Erie County  
*Executor:* Stephen R. Van Horn  
*Attorney:* Steven E. George, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**VOGEL, IRENE F.,  
deceased**

Late of the Borough of North East, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Marylou Osborne, c/o Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428  
*Attorney:* Leigh Ann Orton, Esquire, Orton & Orton, 68 East Main Street, North East, PA 16428

**THIRD PUBLICATION****BROSIUS, JACQUILIN A.,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Natalie M. Hansen, c/o Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506  
*Attorney:* Joseph B. Spero, Esquire, 3213 West 26th Street, Erie, Pennsylvania 16506

**CAREY, MERLE A.,  
deceased**

Late of North East Boro, Erie County, Commonwealth of Pennsylvania  
*Executor:* Nathan S. Carey, P.O. Box 748, North East, PA 16428  
*Attorney:* None

**DEEGAN, LEONARD F., a/k/a  
LENNY F. DEEGAN, a/k/a  
LENNY DEEGAN,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Administrator:* Shawn M. Deegan, Sr., c/o Kenzie P. Ryback, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Kenzie P. Ryback, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**DOMOWICZ, STANLEY J.,  
deceased**

Late of the City of Erie  
*Executrix:* Joyce Trejchel, c/o 731 French Street, Erie, PA 16501  
*Attorney:* Angelo P. Arduini, Esquire, 731 French Street, Erie, PA 16501

**FINNELL, ROBERT  
MILLARD, JR., a/k/a  
ROBERT M. FINNELL, JR.,  
deceased**

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania  
*Co-administratrices:* Leslie Finnell and Tiffany Laboski, 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

**FISK, BRADLEY R.,  
deceased**

Late of the Borough of Union City, County of Erie, Pennsylvania  
*Co-executors:* Robert M. Glenn and Cindy Conley, c/o Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407  
*Attorney:* Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407

**JOHNSON, CLARK J.,  
deceased**

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Clark M. Johnson, 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

**KOMIS, NICHOLAS,  
deceased**

Late of the Borough of North East, County of Erie, Commonwealth of Pennsylvania  
*Administrator:* Andrew Komis, 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

**MANOUSAKIS, SPYRIDON,  
deceased**

Late of Athens, Attica, Greece  
*Administratrix:* Colleen R. Stumpf, Administrator, C.T.A., 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

**MYERS, WILLIAM,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executrix:* Erickia Conway, 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

**PIUS, WANDA M., a/k/a  
WANDA PIUS,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Pauline J. Zajac, 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

**RICHIR, MARGARET M., a/k/a  
MARGARET ROSE RICHIR,  
a/k/a MARGARET R. RICHIR,  
a/k/a MARGARET RICHIR,  
deceased**

Late of the Township of Millcreek, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Robert A. Wokulich, c/o 504 State Street, Suite 300, Erie, PA 16501  
*Attorney:* Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**ROBASKY, FRANK B., a/k/a  
FRANK ROBASKY,  
deceased**

Late of the Township of Elk Creek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Judith A. Mickle, 8670 Cranberry Road, Albion, PA 16401  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**SCHMIDT, WALTER J.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executrix:* Jerilyn Pascale, 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

**TRETTTEL, JOHN F.,  
deceased**

Late of Millcreek Township, Erie County, Commonwealth of Pennsylvania  
*Co-executors:* Michael D. Trettel and J. Roger Trettel, 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

**UPLINGER, FOREST D.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Co-executors:* Dale E. Uplinger and Steven C. Uplinger, c/o Spero Law Office, 3213 West 26th Street, Erie, Pennsylvania 16506  
*Attorney:* Joseph B. Spero, Esquire, Spero Law Office, 3213 West 26th Street, Erie, Pennsylvania 16506

**WRIGHT, HERBERT G.,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Laurie Thompson, 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

**WROBEL, LEONARD J.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executrix:* Denise Boyles, c/o Mary Alfieri Richmond, Esq., 502 Parade Street, Erie, PA 16507  
*Attorney:* Mary Alfieri Richmond, Esq., 502 Parade Street, Erie, PA 16507



## Counseling in Custody Cases

Thursday, November 18, 2021

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

**Registration:** 11:45 a.m.  
**Seminar:** 12:00 - 1:00 p.m.  
**Cost:** \$47 - ECBA Members (Judges & Attorneys) and their Non-attorney Staff  
\$60 - Non-members

If attending in-person, a boxed lunch will be provided.



1 Hour Substantive CLE Credit

FOR MORE INFORMATION AND TO REGISTER, VISIT:  
<https://www.eriebar.com/events/public-registration/1744>



## Support Rules Update

Tuesday, December 14, 2021

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

**Registration:** 11:45 a.m.; **Seminar:** 12:00 - 1:30 p.m.

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

If attending in-person, a boxed lunch will be provided.

1.5 hours Substantive CLE credits

FOR MORE INFORMATION AND TO REGISTER, VISIT:  
<https://www.eriebar.com/events/public-registration/1748>



## MARK YOUR CALENDAR!

THURSDAY, DECEMBER 9, 2021

BAYFRONT CONVENTION CENTER,  
1 SASSAFRAS PIER, ERIE

The ECBA Annual Membership Meeting will be held in-person and via Zoom.

For the safety of all attendees and guests, masks are required.

2:30 P.M.

THE CONSTITUTIONAL PATHWAY TO BLACK LIVES MATTER

1 ETHICS CLE CREDIT, \$47.00

*Parris Jerome Baker, PhD, MSSA, Associate Professor, Gannon University & Director, Social Work, Mortuary Science, and Gerontology Programs*

The impact and contributions of the U.S. Constitution on race relations in America and the appalling silence of good people (King, Jr., M. L., Letter from a Birmingham Jail. In Why We Can't Wait, 1964).

3:30 P.M. - BREAK

3:45 P.M.

AVOIDING LEGAL MALPRACTICE:

STEPS YOU CAN TAKE TO MINIMIZE YOUR RISKS

1 ETHICS CLE CREDIT, \$47.00

*Scott R. Eberle, Esq., Burns White LLC*

This program features information on a variety of issues that have been identified as common areas where attorneys can be exposed to liability or malpractice claims and focuses on steps to take to avoid, or at least mitigate, potential claims. The program will provide the perspective of a risk manager, addressing some of the scenarios attorneys may encounter as we move toward a post-COVID environment. Engagement letters, remote work, cloud computing and cybersecurity are among the chief topics. Attend and get tips on steps you can take to cover your practice and be prepared if a claim is asserted against you or your firm. *Attorneys who are insured through the Pennsylvania Bar Association Insurance Program, advised and administered by USI Affinity, have the ability to earn up to a 7.5% discount on their malpractice insurance by attending.*

4:45 P.M. - COCKTAIL BREAK

5:30 P.M.

2021 ECBA ANNUAL MEMBERSHIP MEETING

*Nicholas R. Pagliari, Esq., ECBA Board President*

Agenda with additional speakers to come.

6:30 P.M.

ECBA MEMBERSHIP APPRECIATION COCKTAIL RECEPTION

*Compliments of the Erie County Bar Association!*

All Annual Meeting attendees will receive a themed gift of appreciation the day of the event.

REGISTER AT:

[HTTPS://WWW.ERIEBAR.COM/EVENTS/PUBLIC-REGISTRATION/1747](https://www.eriebar.com/events/public-registration/1747)

## CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

**GRANT T. MILLER**..... (office) 814-878-5817  
 Deputy Attorney General ..... (mobile) 814-240-8845  
 Insurance Fraud Section / Medicaid Fraud Control Section  
 Office of the Attorney General of Pennsylvania  
 4801 Atlantic Avenue  
 Erie, PA 16506 ..... [grmiller@attorneygeneral.gov](mailto:grmiller@attorneygeneral.gov)

**DENISE C. PEKELNICKY**.....814-347-5593  
 Law Office of Denise C. Pekelnicky.....(f) 814-347-5267  
 93 West Main Street  
 North East, PA 16428.....[denise@dcplawoffice.com](mailto:denise@dcplawoffice.com)

**JUSTIN J. SMITH** .....814-602-8725  
 The Travis Law Firm  
 102 Lorna Lane  
 Edinboro, PA 16412 .....[jsmith@thetravislawfirm.com](mailto:jsmith@thetravislawfirm.com)

## Erie County Bar Association

### Zoom Services



— Your connection to the world of communication.

#### WHAT IS ZOOM?

Zoom conferencing brings together people at different locations around the country and around the world. Our Zoom conferencing account can connect with one location or with multiple locations, providing an instantaneous connection to facilitate meetings, interviews, depositions and much more.



#### WHY USE ZOOM?

Business can be conducted without the expense and inconvenience of travel, overnight accommodations and time out of the office when using our Zoom conferencing system.



#### RATES:

**Non-ECBA Members:**  
 \$150/hour (minimum 1 hour)  
 M-F, 8:30 a.m. - 5:00 p.m.

**ECBA Members:**  
 \$100/hour (minimum 1 hour)  
 M-F, 8:30 a.m. - 5:00 p.m.

## WEEKLY WRAP-UP

November 12, 2021

**Judge gets reprimand partly for this Facebook advice to shoplifters: To avoid arrests, don't sport green hair** - A judge in Chattanooga, Tennessee, has received a public reprimand partly for his tongue-in-cheek online advice on how to avoid arrests. In a June Facebook post, Webb told would-be shoplifters that “stealth is key,” and they should blend in with their surroundings. He offered this example: “You and your 5’10” sister walk in [Walmart] with green hair and green toenails and green flip-flops that smack the back of your feet with every step you make, and you don’t blend in and you are caught with three steaks shoved into your pants. You forgot to be stealth.” Read more ... <https://www.abajournal.com/news/article/judge-gets-reprimand-for-facebook-advice-on-avoiding-arrest-blend-in-when-shoplifting-no-green-hair>

**Google awaits EU Antitrust ruling** - On Wednesday, the General Court of the Court of Justice of the European Union will rule on whether Google has favored its own shopping service in its search results over its competitors. Linda Thompson reports that the case has far reaching implications for a common business model in the tech sector known as self-preferencing, which is when a company uses its dominance in one market to enter another. The case at hand traces its roots back to Google’s appeal of a €2.42 billion fine by the European Commission in 2017. Many other pending EU antitrust cases against tech giants such as Amazon, Apple and Meta (Facebook) also involve the practice of self-preferencing.

**Judge remains on Santa’s ‘nice’ list despite tweeted order banning Elf on the Shelf** - A judge in Cobb County, Georgia, is getting national attention after he tweeted a mock order banning the Elf on the Shelf in his jurisdiction. Chief Judge Robert D. Leonard II banned the holiday tradition in Cobb County while adding that there would be “no contempt” for those who disobey. Read more ... <https://www.abajournal.com/news/article/judge-remains-on-santas-nice-list-despite-tweeted-order-banning-elf-on-the-shelf>

**More law firms use ‘virtual internships’ to recruit summer associates** - Digital internships for undergraduates and J.D. students are catching on as law firm summer associate recruiting tools that can help build a firm’s “brand awareness.” Eight major U.S. firms now offer “virtual internships” through Forage, an online platform that provides simulated work experiences that employers can use to connect with and evaluate potential future hires. Read more ... <https://www.reuters.com/legal/legalindustry/more-law-firms-use-virtual-internships-recruit-summer-associates-2021-10-25/>

**Trusted advisors?** - Ellenoff Grossman & Schole filed a legal malpractice complaint Wednesday in California Central District Court on behalf of Qatar-based Trivalley Trading & Contracting and Dr. Khalid bin Jabor Al Thani. The suit targets intellectual property attorneys Levin & Dicterow for allegedly accepting a corporate case with no prior experience, constantly demanding higher fees and failing to meet discovery deadlines. The law firm is also accused of joining opposing forces once it withdrew as the plaintiffs’ counsel in the underlying litigation, exposing the plaintiffs’ trade secrets in the process. Counsel have not yet appeared for the defendants. The case is 8:21-cv-01857, *Trivalley Doha Qatar et al v. William Levin et al.*

BUSINESS  
PARTNERS



LAWPAY:

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



Velocity Network:

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



NFP Structured Settlements:

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



Northwest Bank:

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



Maloney, Reed, Scarpitti & Co.:

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



Thomson Reuters:

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

