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# ERIE COUNTY LEGAL JOURNAL

OPINION  
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In the Matter of the Adoption of D.I.S.;  
In the Matter of the Adoption of D.S.; Appeal of: A.N.S., Mother

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## ERIE COUNTY LEGAL JOURNAL

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

Managing Editor: Megan E. Anthony

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## ERIE COUNTY BAR ASSOCIATION CALENDAR OF EVENTS AND SEMINARS

### SATURDAY, MAY 7, 2022

Community Law Day  
10:00 a.m. - 2:00 p.m.  
MLK Center, 312 Chestnut Street, Erie  
*Click link for details*  
[https://www.eriebar.com/events/ecba-  
events/1757-community-law-day](https://www.eriebar.com/events/ecba-events/1757-community-law-day)

### TUESDAY, MAY 10, 2022

Law Day  
Noon  
Bayfront Convention Center, 1 Sassafra Pier, Erie  
*Click link for details*  
[https://www.eriebar.com/events/public-  
registration/1752](https://www.eriebar.com/events/public-registration/1752)

### WEDNESDAY, MAY 11, 2022

Live ECBA Lunch-n-Learn Seminar  
*The Intoxication Defense and Violation of Law  
Defenses Under the PA & Other States' Workers'  
Compensation Laws*  
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/1759](https://www.eriebar.com/events/public-registration/1759)

### FRIDAY, MAY 13, 2022

Live ECBA Lunch-n-Learn Seminar  
*The Burned Out Lawyer: Recognition and  
Prevention Strategies in the COVID-19 World*  
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/1753](https://www.eriebar.com/events/public-registration/1753)

### TUESDAY, MAY 17, 2022

Family Law Section Meeting  
Noon  
Judge Walsh's Courtroom

### WEDNESDAY, MAY 18, 2022

Women's Division Meeting  
Noon  
ECBA Headquarters in-person or via Zoom

### THURSDAY, MAY 19, 2022

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

### THURSDAY, MAY 19, 2022

AKT Kid Konnection Event  
5:30 p.m. - 7:00 p.m.  
ExpERIENCE Children's Museum  
420 French Street, Erie

### FRIDAY, MAY 20, 2022

Senior Lawyers Division Special Event  
*Warner Theater Tour and Luncheon*  
10:30 a.m. - tour  
12:00 p.m. - luncheon  
*Click link for details*  
[https://www.eriebar.com/events/member-  
registration/1749](https://www.eriebar.com/events/member-registration/1749)

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### IN THE MATTER OF THE ADOPTION OF D.I.S. (D.O.B.: MARCH 4, 2014)

### IN THE MATTER OF THE ADOPTION OF D.S. (D.O.B.: OCTOBER 26, 2017)

#### APPEAL OF: A.N.S., MOTHER AS TO BOTH NOS. 68 AND 68A IN ADOPTION 2021; AND 1227 WDA 2021 AND 1228 WDA 2021

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

"Parental rights may be involuntarily terminated where any one subsection of Section 2511(a) is satisfied, along with consideration of the subsection 2511(b) provisions." *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

The grounds for termination of parental rights due to parental incapacity that cannot be remedied are not limited to affirmative misconduct; instead, such grounds emphasize the child's present and future need for essential parental care, control or subsistence necessary for his physical or mental well-being, and, therefore, the statutory language should not be read to compel courts to ignore a child's need for a stable home and strong, continuous parental ties, particularly so where disruption of the family has already occurred and there is no reasonable prospect for reuniting it. 23 Pa.C.S.A. § 2511(a)(2).

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

In an action to terminate parental rights, above all else adequate consideration must be given to the needs and welfare of the child. 23 Pa.C.S. § 2511(b).

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

When a parent has demonstrated a continued inability to conduct her life in a fashion that would provide a safe environment for a child, whether that child is living with the parent or not, and the behavior of the parent is irremediable as supported by clear and competent evidence, the termination of parental rights is justified. 23 Pa.C.S. § 2511(a)(2).

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

A parent's vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous, in a proceeding to terminate parental rights. 23 Pa.C.S. § 2511(a).

#### *INFANTS / TERMINATION OF PARENTAL RIGHTS / JUVENILE*

The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his ... parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination." *In re Z.P.*, 994 A.2d at 1117 (quoting *In re B., N.M.*, 856 A.2d 847, 855 (Pa. Super. 2004)).

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
ORPHAN'S COURT DIVISION  
**NO. 68 IN ADOPTION 2021**  
1227 WDA 2021

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PENNSYLVANIA  
ORPHAN'S COURT DIVISION  
**NO. 68A IN ADOPTION 2021**  
1228 WDA 2021

Appearances: Emily Mosco Merski, Esq., for Appellant, A.N.S., Mother  
 Christine Konzal, Esq., Legal Counsel on behalf of Minor Children  
 Anthony G. Vendetti, Assistant Solicitor, ECCYS

### **1925(a) OPINION**

Domitrovich, J., November 16, 2021

Appellant A.N.S., [hereinafter Mother] appeals, through her counsel Emily M. Merski, Esquire, from the Final Decrees dated September 17, 2021, in the Erie County Court of Common Pleas, wherein both Petitions of Involuntary Termination were filed by the Erie County Children and Youth Services [hereinafter ECCYS] and granted by this Involuntary Termination [hereinafter IVT] Court pursuant to 23 Pa.C.S. §2511(a)(1), (a)(2), (a)(5), (a)(8); and §2511(b), regarding Minor Child D.I.S. born on March 4, 2014, and Minor Child D.S. born on October 26, 2017, [collectively Minor Children], thereby terminating Mother's parental rights to these Minor Children.<sup>1</sup>

At the First Permanency hearing, held on September 18, 2020, the transcribed record indicates how the Dependency Court judge painstakingly explained on the record each term and condition of her treatment plan. Mother clearly understood every term and condition of her treatment plan. Moreover, the Dependency Court judge provided commentary to Mother as to her role in following through with the treatment plan and her need to comply. *See Notes of Transcript [hereafter N.T., Dependency], First Permanency Hearing, 9/18/202, 12-18, as transcribed and in the record for this IVT Hearing record, with no objection by counsel and the parties, N.T., IVT Hearing, 8/17/2021, 149-150.* Although he had found Mother noncompliant with the treatment plan at that First Permanency Hearing, the Dependency Court judge still provided Mother additional time to comply with said treatment plan by ordering a six-month review instead of a three-month review, as requested by ECCYS. Thereafter, Mother, however, remained noncompliant with her treatment plan during the life span of said Dependency proceedings. Moreover, contrary to said Dependency Court colloquy, Mother testified at this IVT Hearing that she "never knew to contact" ECCYS and "just got papers from the [ECCYS] for this [IVT] hearing and my daughter's, that's it" while in prison regarding this IVT Hearing. *N.T., 118:21-25; 119:1-12.*

As reflected above, this undersigned IVT Court judge was not the Dependency Court judge presiding in this case; therefore, this IVT Court judge performed her role by evaluating, reviewing and examining independently the entire record in this case. This IVT Court found and concluded ECCYS carried its burden of proof and proved by clear and convincing evidence in each of these cases and as to each section referred in each Petition, i.e., 23 Pa.C.S. §2511(a)(1), (a)(2), (a)(5), (a)(8) and §2511(b). Mother, through her counsel, raises on appeal in her Concise Statement of Errors that the IVT Court abused its discretion and/or erred by finding ECCYS met its burden of proof with clear and convincing evidence to terminate involuntarily Mother's parental rights under 23 Pa.C.S. §2511(a)(2), (a)(5), (a)(8) and §2511(b). Counsel did not raise 23 Pa.C.S. §2511(a)(1) on appeal; however, this IVT Court will still address that section.

<sup>1</sup> This IVT Court addresses both Minor Children in this same Opinion. Since these two cases captioned above are not consolidated at this time, this IVT Court filed an original of this 1925(a) Opinion at each Docket No. for each Minor Child.

### **FINDINGS OF FACT and PROCEDURAL BACKGROUND**

The Dependency cases as to Minor Child D.I.S. and Minor Child D.S. began on June 11, 2020, when ECCYS petitioned for emergency relief wherein inappropriate individuals were caring for Mother's Minor Children in Buffalo, New York, wherein Mother had placed her Minor Children with their paternal relatives. Minor Child D.S. suffered a head injury causing him to have a subdural hematoma on May 29, 2020. Upon their return to Erie, the Dependency Court issued two Emergency Protective Custody Orders. Each Court Order directed removal of the Minor Child D.I.S. and Minor Child D.S. from Mother and/or Father as necessary for each Minor Child's welfare and best interest. ECCYS was found to have made reasonable efforts to prevent removal or provide reunification. Any lack of services to prevent removal were reasonable due to the emergency nature of the removal and each Minor Child's safety considerations. Minor Child D.I.S. and Minor Child D.S. were placed in the temporary protective physical and legal custody of ECCYS, consistent with the Juvenile Act and Child Protective Services Law. *Emergency Protective Custody Orders for D.I.S. and D.Z.S., each dated June 11, 2020, in Petitioner's Exhibit 5, pp. 1-2, 20-21.*

On June 12, 2020, Juvenile Court Dependency Docket Entries indicate a Shelter Care Hearing was held before a Juvenile Court Hearing Officer as to each Minor Child. *Petitioner's Exhibit 5, pages 3-4, 22-23.* On June 16, 2020, the Juvenile Court Hearing Officer issued and filed her Recommendations, adopted and ordered by the Dependency Court on June 16, 2020.

As to each Minor Child, Dependency Court found on June 16, 2020, sufficient evidence existed to prove continuation or return of each Minor Child to the home of Mother and/or Father was not in the best interest of each Minor Child. In fact, Mother's physical whereabouts were unknown at that time. Mother did not appear for the Shelter Care hearing although ECCYS had communicated with Mother to give her notice of the hearing date. Minor Child D.I.S. and Minor Child D.S.'s Guardian Ad Litem [GAL] agreed to continued temporary shelter care pending an adjudication hearing. ECCYS was found to have made reasonable efforts to prevent or eliminate the need for removal of these Minor Children from the home of Mother and/or Father. Each Order stated the Minor Child was not returning to the home of Mother and/or Father since returning the Minor Child was contrary to his welfare and best interest. Legal and physical custody of each Minor Child remained with ECCYS. These Minor Children remained in Kinship Care as the least restrictive placement meeting their needs and no less restrictive alternatives were available. ECCYS was found to have satisfied the requirements regarding family finding. *Recommendation for Shelter Care for Minor Child D.I.S. dated June 16, 2020; Recommendation for Shelter Care for Minor Child D.S. dated June 16, 2020, in Petitioner's Exhibit 5.*

On June 25, 2020, Adjudicatory and Dispositional hearings were held in the best interests of the Minor Children. On June 29, 2020, the Juvenile Court Hearing Officer issued her "Recommendations for Adjudication and Disposition." *See Petitioner's Exhibit 5.* "Mother appeared via telephone from her home and wished to represent herself." *Id.* ECCYS amended each Dependency Petition at Paragraphs 1A(a) and 1A(b) by removing language indicating Mother had been actively avoiding and/or refusing to work with the ECCYS and thereby substituting Mother "has been inconsistent in her involvement with [ECCYS]." *Id.* With said amendment being acceptable, "[M]other also stipulated to the allegations set forth



in the Dependency Petition.” *Id.* Moreover, “the parties agreed that the Treatment Plans, placement setting, and visitation schedule are appropriate for the family.” *Id.*

Immediately thereafter on the same day, June 25, 2020, with counsel, and Mother representing herself, the Dispositional Hearing was immediately held. The Dependency Court found based on findings of abuse, neglect or dependency as to each Minor Child, removal from the home of Mother and/or Father was in the best interest of each Minor Child. A three-month review hearing was ordered. A seven paragraph treatment plan for Mother clearly delineated: 1. Mother must refrain from drugs and/or alcohol; 2. Mother must have random urinalysis through Color Code at Esper Treatment Center; Mother must have drug and/or alcohol assessments, and if treatment recommended, Mother must gain an understanding of how her drug usage affects her mental health and decision-making; 3. Mother must participate in mental health assessment and follow-through; 4. Mother must obtain and/or maintain gainful employment and provide ECCYS with documented proof of an inability to work and subsequent income; 5. Mother must obtain and/or maintain safe and stable housing and provide proof of housing to ECCYS with all household members being approved by ECCYS; 6. Mother must comply with guidelines of Erie County Adult Probation; and 7. Mother must sign and all releases of information as requested by ECCYS. *See Petitioner’s Exhibit 5 at p. 3.*

In order to provide Mother incentive to follow her treatment plan, Mother’s visitation with Minor Children was contingent upon Mother being drug and alcohol free. Mother’s visitation would increase or decrease depending upon Mother’s compliance or lack of compliance with her treatment plan. If a positive urine would occur, Mother would not have a visit until her next clean urine. *Id.*

ECCYS was found to have made all reasonable efforts to prevent or eliminate the need for removal of Minor Child D.I.S. and Minor Child D.S. from the home of Mother and/or Father prior to placement. Moreover, ECCYS was found to have made reasonable efforts prior to placement for the siblings to be together. The Court ordered Minor Child D.I.S. and Minor Child D.S. to remain in Kinship Care, the least restrictive alternative meeting the needs of Minor Children, and no less restrictive alternatives were available. The placement goal for Minor Child D.I.S. and Minor Child D.S. was return to parent or guardian with the projected date being uncertain. *Id.*

The *Pre-Dispositional Summary* that was prepared states, Mother “has pending charges regarding retail thefts on February 10, 2020, and February 18, 2020.” Mother had a Preliminary Hearing in front of Magisterial District Judge Bizzarro. Mother was noted as supervised by Erie County Adult Probation. Mother is listed with an extensive array of criminal charges and guilty pleas including five (5) retail theft convictions (and a conspiracy to commit retail theft) as well receiving convictions for receiving stolen property, theft, drug paraphernalia and two convictions for false identification to law enforcement in 2018 and 2005 as well as driving violations *Id. at 6.*

In addition, *Pre-Dispositional Summary* states as to a prior child welfare history, referral was received dated 1/18/2019, as to Mother’s inadequate healthcare regarding her three children (including these two Minor Children) that Mother had in her care. *Id. at 7.* Those allegations were validated; however, that Case was closed at Intake level due to all of Mother’s children being in informal placements with relatives who were able to meet the Minor Children’s health needs. Mother was incarcerated at the time of said referral. In addition,

on October 26, 2017, a referral was received concerning substance abuse by Mother due to Mother testing positive for opiates at the time of Minor Child D.S.’s premature birth. Mother said she thought she took Tylenol on the morning of her son’s birth; however, Mother had really taken Oxycodone not prescribed to her. Allegation was validated, and case closed at Intake level due to no continued concerns with substance abuse. Mother has one other child, her 13-year-old daughter, who was removed from Mother and placed in Kinship Care with a legal guardian. *Id.*

The *Pre-Dispositional Summary* that was prepared for the Dispositional hearing indicates Minor Child D.S., at the time of this hearing in June of 2020, was two (2) years old and placed in the Emergency Kinship Home of maternal uncle and his wife. Minor Child D.S. had a follow-up medical appointment on June 22, 2020, after he suffered a seizure from a traumatic subdural hemorrhage on May 29, 2020, when he resided in Buffalo, New York. “It was determined the injury was intentional and greater than 28 days.” *Id. at 2.* “[T]here was an investigation conducted by the State Police in Buffalo, New York, but it was determined that they could not charge anyone in the incident as all parties were not forthcoming with information.” *Id. at 2.* There were also concerns Minor Child D.S. had possible symptoms of Covid-19 as his older sister had tested positive on June 18, 2020. Minor Child D.S. was physically healthy and had no other concerns. However, Minor Child D.S. at the time had “a speech delay” and a referral was made to “Early Intervention.” *Pre-Dispositional Summary for Minor Children D.S. and D.I.S. dated June 25, 2020, Petitioner’s Exhibit 6, p. 2.*

As to their Kinship care, the *Pre-Dispositional Summary* states the Kinship Caretakers were only able to take in one child. “The kinship families are close, and the children have contact with their siblings.” *Id. at 3.*

The *Pre-Dispositional Summary* also indicates Minor Child D.I.S. was now 6 years old and in the Emergency Kinship Home of his maternal aunt. Minor Child D.I.S. “is physically healthy, and no medical concerns have been noted.” Minor Child D.I.S. “has not been assessed for mental treatment, but does have a history of physical and mental aggression.” ECCYS indicated it will refer him for assessments for treatment. Minor Child D.I.S. also has speech concerns and a referral would be made to Intermediate Unit when appropriate. Minor Child D.I.S.’s educational information can be gathered from “Erie Rise Academy.” “Prior to moving to Buffalo,” Minor Child D.I.S. “was doing well in school, he does have behavioral concerns but had subsided once he was in a routine at school. Minor Child D.I.S. could possibly move to the First grade when he learns 25 of his sight words fluently. He was at 10-15 words. While residing in Buffalo, Minor Child D.I.S. did not attend any school due to pandemic. Minor Child D.I.S. will need to “attend school daily and may need to be assessed for Individual Education Plan once he is in first grade.” *Pre-Dispositional Summary for Minor Children D.S. and D.I.S. dated June 25, 2020, Petitioner’s Exhibit 6, pp. 3-4.*

On June 29, 2020, Dependency Court adopted and ordered the Juvenile Hearing Officer’s Recommendation for Adjudication and Disposition as to Minor Child D.I.S. and Minor Child D.S. as being the “in the best interest of the child.” *Recommendation for Adjudication and Disposition for Minor Child D.I.S. dated June 29, 2020 Petitioner’s Exhibit 5, page 4. Recommendation for Adjudication and Disposition for Minor Child D.S. dated June 29, 2020, Petitioner’s Exhibit 5, p. 4.*

On September 18, 2020, an Initial or First Permanency Review Hearing was held as to

Minor Child D.I.S. and Minor Child D.S. On September 23, 2020, Dependency Court issued Permanency Review Orders for Minor Child D.I.S. and Minor Child D.S. finding Mother had no compliance with the permanency treatment plan, and Mother made no progress toward alleviating the circumstances that necessitated these original placements of the Minor Children. Mother had not complied with Court-ordered services. Mother had not maintained contact with ECCYS regarding her whereabouts but reported she was still residing in Erie. Mother had not turned herself into authorities for an arrest warrant for pending retail theft charges. Mother had missed two (2) scheduled criminal court hearings on July 15, 2020 and July 29, 2020, regarding her pending criminal charges. Mother says she wanted to be reunified with her children but when confronted with how her actions impacted her Minor Children, she did not want to discuss the impact of her actions on the Minor Children. Mother felt she should be commended for allowing her Minor Children to be taken care of by other family members.

Mother continued to live the street life, and Mother's brother, J.S., indicated he "struggles" over the way, his sister, the Mother is "living that way" and how the family has to care for her Minor Children, not the Mother. Recently, Mother had contacted her Minor Children by telephone and Facebook Messenger, and they were willing to speak to her. Minor Children were reported as being happy to hear from her. *Court Summary, Permanency Hearing as to Minor Child D.I.S. and Minor Child D.S., dated September 18, 2020 Petitioner's Exhibit 6, p. 13.*

The Court Summary dated September 18, 2020, states the Dependency Court states Mother shall refrain from drugs and alcohol and shall submit to random urinalysis testing through Esper Treatment Center with the Color Code program. Between June 30, 2020, and August 27, 2020, Mother was to participate in a total of eighteen (18) urinalysis screenings. However, Mother failed to abide by this Court-directive in that **Mother had not participated in any urinalysis screenings at the Esper Treatment Center.** Therefore, Mother had eighteen (18) No Shows, which are considered as Positive results. *Court Summary, Permanency Hearing as to Minor Child D.I.S. and Minor Child D.S., dated September 18, 2020 Petitioner's Exhibit 6, pp. 13-14.*

**Mother's Specific Dates as to Urinalysis results are:**

6/30/20	No Show – Positive	7/30/20	No Show – Positive
7/02/20	No Show – Positive	8/04/20	No Show – Positive
7/06/20	No Show – Positive	8/07/20	No Show – Positive
7/10/20	No Show – Positive	8/10/20	No Show – Positive
7/14/20	No Show – Positive	8/12/20	No Show – Positive
7/15/20	No Show – Positive	8/19/20	No Show – Positive
7/21/20	No Show – Positive	8/20/20	No Show – Positive
7/23/20	No Show – Positive	8/24/20	No Show – Positive
7/27/20	No Show – Positive	8/27/20	No Show – Positive

Mother was Court-ordered to participate in a drug and alcohol assessment and follow all treatment recommendations, and if treatment was recommended, Mother was to learn how her drug usage affects her mental health and decision-making. However, this had not occurred since Mother failed to follow-through with this Court-ordered directive to schedule her drug and alcohol assessment.

As to the Court-ordered directive for Mother to participate in a mental health assessment

and follow through with all treatment recommendations, Mother failed to participate in any assessment. Mother did not attend her rescheduled counseling appointment. In fact, Mother's Blended Case Manager [BCM] could not coordinate continuity of care to assist Mother due to Mother's no contact with her BCM since June 25, 2020. *Id. at 14.*

As to the Court Order to obtain and/or maintain gainful employment or provide ECCYS with documented proof of an inability to work and subsequent income, Mother had not reported she gained employment.

Mother was Court-ordered to obtain and/or maintain safe and stable housing and provide proof of housing to ECCYS along with all members of the household being agency approved. However, Mother was "on the run," and Mother would not disclose (and had not disclosed) her location or housing situation. Mother stated she was living somewhere in Erie.

Mother was Court-ordered to comply with the guidelines set forth by Erie County Adult Probation; however, Mother failed to do so. Mother failed to maintain contact with her Erie County Adult Probation Officer since June 3, 2020. Mother failed to follow the guidelines set by Erie County Adult Probation; she stated she would not turn herself into authorities until she gets her life together.

Mother was Court-ordered to sign any and all releases of information as requested by ECCYS; however, Mother had not made herself available since the last hearing to sign the necessary releases. *Court Summary, Permanency Hearing as to Minor Child D.I.S. and Minor Child D.S., dated September 18, 2020 Petitioner's Exhibit 6, p. 14.* Court Summary states Minor Child D.S. had a Neurological appointment for his injuries in Buffalo, New York, and his MRI revealed he has some remnants of the blood clot from the subdural hematoma. *Id. at 3.*

Since residing in kinship home, Minor Child D.S. made more progress with his speech. He used more words when he wants something. Kinship family was monitoring his progress, and Minor Child D.S. continued to improve in his communications. *Id. at 4.*

Additionally, the Court Summary dated September 18, 2020, states Minor Child D.I.S. "endured a lot of trauma in his short life." *Id. at 6.* He "is an intelligent and personable child," but he has a difficult time expressing his emotions without becoming aggressive. He appears to do well on one-on-one when he interacts with structure and consistency. He had witnessed domestic violence while residing with Mother and Father and had lived in a chaotic, unstable environment for most of his life. According to Erie County CYS in Buffalo, NY, Minor Child D.I.S. did not disclose any abuse or neglect, and he was examined at Osai Children's Hospital with no concerns. Despite no disclosure, this Minor child has some behavioral issues after experiencing abuse and neglect in Buffalo, NY. Also, Minor Child D.I.S. has been physically aggressive toward his cousin, attempted to choke his cousin, smeared feces on his cousin, destroyed property in the kinship home, fought with his own sister, dragged another cousin out of bed and fought him. He does not like being told what to do by his older siblings or sitters. *Id. at 7.* Although maternal aunt as his kinship caregiver had Minor Child D.I.S. involved with football, he struggles to get along with his peers during practice. Minor Child D.I.S. is impulsive. The kinship caregiver is unsure if she will be able to maintain him for the long term if his aggression continues. A referral had been made for mental health service for Minor Child D.I.S. and an appointment was scheduled for him for September 2, 2020. Additionally, while in kinship home, Minor Child D.S. sees Minor Child D.I.S. "at least biweekly." *Court Summary dated September 18, 2020, Petitioner's Exhibit 6 at 7.*

During this First Permanency hearing, held on September 18, 2020, the transcribed record illustrates the Dependency Court judge painstakingly ensured on the record for the Mother that the Mother clearly understood every term and condition of her treatment plan, and he provided commentary to her as to her necessity to follow-through with her commitment to comply. *See N.T., Dependency, 12-18.* Although he had found Mother noncompliant with the treatment plan at that First Permanency Hearing, the Dependency Court judge still provided Mother even more ample time to comply with said treatment plan and then cautioned her as to the ramifications for failing to follow-through with said treatment plan. He confirmed Mother was receiving her current and previous court-related mail and information from ECCYS and the Court at the address she stated on the record: 2216 German Street in Erie.

After the First Permanency Hearing on September 18, 2020, Dependency Court entered its Order dated September 23, 2020, finding Mother had “not been in compliance with the permanency plan,” and “there has been no progress toward alleviating the circumstances which necessitated the original placement.” The Order further states, “placement of the child continues to be necessary and appropriate” and “the permanency plan developed for this child, dated September 18, 2020 is appropriate and feasible and therefore, [t]he current placement goal is NOT appropriate and/or NOT feasible.” Dependency Court directed Minor Child D.I.S. and Minor Child D.S.’s permanency placement goal as return to parent as uncertain regarding the projected date, and concurrent with a new permanency goal of Adoption. Placement of Minor Child D.I.S. would remain in Kinship Care, specifically, maternal aunt’s Kinship Home and placement of Minor Child D.S. would remain in Kinship Care, specifically, maternal uncle and aunt’s Kinship Home. The same seven points or paragraphs in her treatment plan remained in place for Mother who stated at the time of the colloquy with the Dependency Court judge that she understood every term. *Permanency Review Order for Minor Child D.I.S. dated September 23, 2020, Exhibit 5, p. 1; Permanency Review Order for Minor Child D.S. dated September 23, 2020, Exhibit 5, p. 1. See also N.T., Dependency, 12-18.* Instead of granting the request of ECCYS for a three month review hearing, the Dependency Court judge gave Mother additional time to comply with the treatment plan by ordering a six month review, instead of the three month review. *See N.T., Dependency, 4:9-17; 18:14-18.*

On March 3, 2021, Second Permanency Review Hearings were held for Minor Child D.I.S. and Minor Child D.S. The Combined Court Summary dated March 3, 2021, indicates Mother again has not been compliant with Court-ordered services. Mother had not maintained contact with ECCYS regarding her exact whereabouts although she was suspected to be residing in Erie County. A diligent search was conducted on January 8, 2021, which yielded no new results. Mother has received new charges on January 18, 2021, for Possession of Marijuana and Paraphernalia. Mother at that time had three (3) outstanding warrants for her arrest. ECCYS had been informed that there was a likelihood Mother was currently pregnant. The current Kinship Homes for Minor Child D.I.S. and Minor Child D.S. had stated they are not permanent resources, and they would like ECCYS to find an alternative resource for Minor Children. There is a possible paternal kinship who resides in Ohio, and ECCYS was in the process of completing an Interstate Compact to explore this Kinship Home. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S., dated March 3, 2021, Exhibit 6, p. 10.*

As to the Court-ordered directive that Mother was to refrain from the use of drugs and/

or alcohol and submit to random urinalysis screenings, Mother had been called-in for fifty-eight (58) urine screens during this review period and all fifty-eight (58) urine screens were No-Show Positives.

As to the Court-ordered directive that Mother was to participate in drug and alcohol assessment and follow all treatment recommendations, Mother failed to do so. If recommended treatment, Mother was to gain an understanding of how her drug use affects her mental health and decision-making. Mother failed to schedule an assessment to begin the process.

As to the Court-ordered directive for Mother to participate in a mental health assessment and follow all treatment recommendations, Mother failed to do so.

As to the Court-ordered directive for Mother to obtain and/or maintain gainful employment or provide ECCYS with documented proof of an inability to work and subsequent income. Mother failed to do so as Mother failed to have any contact with ECCYS and did not verify anything with ECCYS.

As to Mother being directed to obtain and/or maintain safe and stable housing and provide proof of housing to ECCYS as well obtain approval of all household members, Mother failed to do so. Mother was on the run and had not disclosed her exact location and housing situation although it is believed Mother is somewhere in Erie County. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S., dated March 3, 2021, Exhibit 6, p. 11.*

Mother was Court-ordered to comply with the guidelines set forth by Erie County Adult Probation. Mother has failed to maintain contact with Adult Probation since June 3, 2020. Mother has not followed through with her guidelines on probation and has stated she is not going to turn herself in until she has her life together.

As to the Court-ordered directive that Mother comply with signing any and all releases of information, ECCYS had been unable to contact or locate Mother. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S., dated March 3, 2021, Exhibit 6, p. 12.*

Minor Child D.S.’s latest MRI revealed most of the bleeding from his subdural hematoma had been reabsorbed. Minor Child D.S. needs no further follow-up appointments. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S., dated March 3, 2021, Exhibit 6, page 3.*

Minor Child D.I.S. was seen at Behavioral Health on October 27, 2020. He was diagnosed with ADHD and given medication to help manage his behavior. Minor Child D.I.S. was prescribed Intuniv (Guanfacine) 1mg to be taken daily. Minor Child D.I.S. also began seeing a therapist on November 4, 2020, but the provider has not seen him since, as Kinship provider reported, that agency provider cancelled his appointment. Kinship provider had difficulties getting through to provider to reschedule. He continued to struggle with behaviors in the Kinship home. Continued medication and therapy will be required to address these behaviors. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S., dated March 3, 2021, Exhibit 6, page 5.*

In its Order dated March 9, 2021, Dependency Court found “Mother had not complied with the permanency plan” and had “no progress toward alleviating the circumstances which necessitated the original placement.” The Order further states, “placement of Minor Child

D.I.S. and Minor Child D.S. continues to be necessary and appropriate.” The placement goal is appropriate and feasible which is to continue the current goal of return to parent with a projected date of unknown and concurrent with the goal of Adoption. Moreover, Dependency Court directed legal and physical custody of Minor Child D.I.S. and Minor Child D.S. shall remain with ECCYS. Placement of Minor Child D.I.S. would remain in Kinship Care, specifically, maternal aunt’s Kinship Home, and placement of Minor Child D.S. would remain in Kinship Care, specifically, maternal uncle and aunt’s Kinship Home. Dependency Court further ordered ECCYS shall no longer offer any services, which included visitations, to the Mother. *Permanency Review Order for Minor Child D.I.S. dated March 9, 2021, Exhibit 5, p. 2. Permanency Review Order for Minor Child D.S. dated March 9, 2021, Exhibit 5, p. 2.*

On May 10, 2021, Minor Child D.I.S. and Minor Child D.S. had their Third Permanency Review Hearing. The Court Summary indicates Minor Child D.S. was now 3 years old and in placement for 11 months. Minor Child D.I.S. was now 7 years old and in placement for 11 months. Both Minor Child D.S. and D.I.S. were placed in the least restrictive placement to meet their needs and no less restrictive alternative available. *Permanency Review Hearing Court Summary for Minor Child D.I.S. and Minor Child D.S. dated May 10, 2021, Exhibit 6, pages 45-48.*

By Order dated May 11, 2021, Dependency Court stated compliance with the Permanency Plan was not applicable to Mother, and Mother made no progress toward alleviating the circumstances that necessitated the original placement. *Permanency Review Order for Minor Child D.I.S. dated May 11, 2021, Exhibit 5, p. 36. Permanency Review Order for Minor Child D.S. dated May 11, 2021, Exhibit 5, p. 17.* Said Order further stated the permanency plan developed for these Minor Children dated May 10, 2021 was appropriate and feasible, and, therefore, the current placement goal was not appropriate and/or not feasible. Dependency Court directed Adoption as the new permanent placement with a projected date for Adoption goal to be achieved in six (6) months. All other matters as to placement etc. remained the same. *Permanency Review Order for Minor Child D.I.S. dated May 11, 2021, Exhibit 5, p. 1-3. Permanency Review Order for Minor Child D.S. dated May 11, 2021, Exhibit 5, p. 1-3.*

On June 11, 2021, ECCYS filed the instant Petitions for Involuntary Termination of Parental Rights to a Child Under the Age of 18 Years as to each Minor Child. On August 17, 2021, the IVT trial was held. Assistant Solicitor Anthony G. Vendetti appeared in-person on behalf of ECCYS. Christine Konzel, Esquire appeared in-person as Legal Counsel on behalf of the Minor Children. Mother was present and appeared in-person. *See Petitioner’s Exhibit 1, Proof of Service.* Mother was represented by Emily M. Merski, Esquire who appeared in-person.

This IVT Court heard testimony from the following ECCYS witnesses who this IVT Court found provided credible testimony: Danielle Urban, ECCYS On-going Caseworker; Craig Christensen, Erie County Adult Probation Supervisor; and Julie Lafferty, ECCYS Supervisor. H.S., as Minor Child D.S.’s kinship provider, was called to testify by Mother’s counsel, credibly testified. Mother also testified.

Petitioner’s Exhibits 1 through 9 were stipulated to by all counsel for admission into the record, and this IVT Court admitted said Exhibits into evidence, without any objections raised. Mother’s urinalysis testing results during the life of Minor Children’s Dependency proceedings from June 30, 2020 to February 26, 2021 were ninety-six (96) “no-show”

positive tests. Petitioner’s Exhibit 7 is as to Magisterial District Court Docket sheets for Mother. Petitioner’s Exhibit 8 includes Common Pleas Criminal Dockets for Mother.

Danielle Urban, Ongoing Caseworker with ECCYS, stated she became involved in this case around November 23, 2020, taking the case over from another ECCYS caseworker, Erica Moffett. *N.T., 13:14-18; 13:24-25; 14:1.* Ms. Urban explained some of the issues that ECCYS was having with Mother who already had an open case with ECCYS for another child, and that Mother and her Minor Child D.I.S. and Minor Child D.S. were “missing in action.” ECCYS was unable to locate them. Minor Children were found in Buffalo where they were subject to abuse and returned to Erie. ECCYS obtained emergency custody on June 11, 2020, and the whereabouts of Mother at that time were still unknown. *N.T., 14:10-17.* Minor Children were taken to a hospital in Buffalo with injuries and Buffalo CYS became involved. Minor Child D.S. had suffered a subdural hematoma. Mother had left Minor Child D.I.S. and Minor Child D.S. in Buffalo with some of Father’s family members. No charges were filed for what happened to Minor Child D.S., as per Caseworker Urban. *N.T., 15:3-14.* ECCYS had been looking for Minor Children for approximately six months to check on their safety and welfare to make sure the Minor Children were healthy. Ultimately, ECCYS did find the Minor Children and there were some injuries. Minor Child D.S. may never be able to play contact sports due to the head injury he suffered. *N.T., 16:1-7.* The Shelter Care Hearing held on June 12, 2020, and the record indicate Mother did not attend the hearing. *N.T., 17:18-21.*

ECCYS filed a Dependency Petition on June 17, 2020, and Mother’s whereabouts were still unknown. *N.T., 17:24-25; 18:1-2.* Mother did attend the Adjudicatory hearing by being present over the telephone, still not disclosing her whereabouts. Mother had a history with ECCYS since October 2019 with an older child who was removed from Mother’s care. Since January of 2020, ECCYS had been trying to work with Mother, but ECCYS could not locate Mother. In March, ECCYS received a report that Mother had sent Minor Children to live with relatives in Buffalo, New York. *N.T., 18:17-25.*

At the time ECCYS filed Dependency Petitions, Mother was still having problems with her housing. Mother resided in Shelter Services but was not complying with the shelter’s terms of services. *N.T., 18:25; 19:1-6.*

Mother was allowing inappropriate individuals to care for the Minor Child and as a result, Minor Child D.S. suffered a head injury. *N.T., 19:7-10.*

ECCYS also indicated Mother has an extensive criminal history. *N.T., 19:11-13. Exhibit 7 & Exhibit 8.*

At the Dependency hearing, Mother and ECCYS stipulated to the amendment to remove the language that she had been actively avoiding or refusing to work with ECCYS, and instead ECCYS accommodated Mother by substituting new language indicating Mother had been inconsistent with her involvement with ECCYS. The Minor Children were adjudicated dependent on June 29, 2020, and placed in kinship care. Minor Child D.S. went with a maternal uncle whereas Minor Child D.I.S. went with a maternal aunt. *N.T., 21:11-25.*

Caseworker Urban stated immediately after the Adjudication hearings, they went into the Dispositional hearings. The goal at that time was set as reunification, and numerous services were ordered for Mother. Mother was to submit to urinalysis screens, participate in drug and alcohol assessment, gain employment, obtain housing, comply with all the guidelines set by Erie County Adult Probation, and sign all the required releases for ECCYS. *N.T., 22:5-15.*



The First Permanency Review Hearing was held on September 18, 2020. Mother was present by telephone. At that hearing, the Dependency Court found there was no compliance from Mother with the permanency plan and no progress by Mother to alleviate the circumstances of placement. At that time, the Dependency Court changed the goal from reunification to concurrent with Adoption. *N.T.*, 23:3-10.

The Second Permanency Review Hearing was held six (6) months later in March of 2021. Neither parent attended said hearing. According to Caseworker Urban, she took the case over from Caseworker Moffett after the first permanency review hearing in November of '20. When Caseworker Urban took the case over, she attempted to make contact with Mother with all the telephone numbers she had for her, but to no avail since all of Mother's telephone lines were disconnected. *N.T.*, 24:7-14.

Caseworker Urban had no contact with Mother from the time she received the case on November 23, 2020 until the March of 2021 Permanency Review hearing. ECCYS never received any letters from Mother on how her Minor Children were doing in care. ECCYS never received any gifts from Mother to give to her Minor Children. *N.T.*, 25:10-12. No visitation occurred between Mother as to either Minor Child from the time these Minor Children were detained to the March of 2021 hearing.

When Caseworker Urban had a conversation with the Erie County Probation Officer regarding Mother, Caseworker Urban discovered Mother still had some theft charges. Moreover, Mother also received charges for drug possession as well Mother had three (3) outstanding active bench warrants for her arrest. *N.T.*, 24:19-25; 25:1.

Even at this time when Caseworker Urban had no contact with Mother, Ms. Urban still recommended the goal remain as reunification. Dependency Court established a shorter time period for the next review hearing to be heard of sixty (60) days. Also, at the time of the March of 2021 hearing, Dependency court ordered no further services to be offered to Mother to accomplish reunification and no further services to Mother as Mother had made no progress on the treatment plan in place. Caseworker Urban then worked with the Father. *N.T.*, 28:14-25; 29:1-7.

At the May 10, 2021 hearing, neither Mother nor Father were present for the hearing. Caseworker Urban at that time requested the goal be changed to Adoption since she felt no progress had been made on the treatment plan and the Minor Children were deserving of permanency. Minor Children still remained in their respective Kinship homes where all of their needs were being met. Caseworker Urban stated it would not be in Minor Children's best interest to disrupt them from their Kinship homes.

Ultimately, Dependency Court changed the goal to Adoption at the May 10, 2021 hearing. *N.T.*, 35:2-22. Caseworker Urban remained the caseworker for this case, and the Minor Children remained in the same respective Kinship Care Homes. Although the Kinship Caregivers "vacillated" about being permanent resources, the Minor Children's needs were being met in their Kinship Homes. ECCYS did not want to disrupt that placement. There have been no visitations between Mother and these Minor Children in over a year. Petitions to Terminate Mother's parental rights were filed on June 11, 2021. A year of placement has occurred, and all of the issues that initially led to placement of both of these Minor Children in the care of ECCYS still exist.

While Mother's whereabouts were initially unknown, Mother is now incarcerated at this

time with new charges with possible revocations on five (5) other dockets. *N.T.*, 37:2-5.

When Caseworker Urban was asked, "Regarding Minor Child D.S. do you feel there would be any detrimental impact upon children in the event the Court terminated the parental rights? Let's start with Mother." *N.T.*, 37:22-25. Caseworker Urban replied no, she did not feel any detrimental impact to these Minor Children would occur in the event the Court terminated Mother's parental rights. Then Caseworker Urban was asked what led her to that conclusion. She replied Mother did not work a treatment plan and did not stay in contact with ECCYS. Mother failed to make efforts to alleviate the reason that placement of her Minor Children became necessary. *N.T.*, 37:22-25; 38:1-5. Mother never earned any visits with Minor Children so Caseworker Urban was never able to witness any interaction with her and Minor Children. Caseworker Urban, therefore, did not view any bond that was healthy or unhealthy between Minor Children and Mother. Minor Child D.S. is verbal and has not inquired about the whereabouts of Mother. If Mother's parental rights are terminated, ECCYS would have more options, i.e., actually more expanded options, available to locate permanent resources for the Minor Children. The same reasons for Minor Child D.S. as to why Mother's rights could be terminated were given by Caseworker Urban for Minor Child D.I.S. *N.T.*, 38:1-25; 39:1-13. Mother submitted no letters and gifts to ECCYS. Caseworker Urban to the best of her knowledge was not aware of any gifts or letters sent by Mother to the Minor Children. *N.T.*, 39:15-24. Mother has done nothing while either incarcerated or on the run to further whatever relationship she had with her Minor Children. *N.T.*, 39:25; 40:1-3. Termination of Mother's parental rights would best serve the needs and welfare of Minor Children to allow them to obtain some permanency moving forward. *N.T.*, 40:4-8.

ECCYS first became involved with this case when Mother was homeless due to losing her home to a fire and was living in Shelter while she was searching for more stable housing. *N.T.*, 40:18-25; 41:1-17. Mother was asked to leave the Shelter for not following the rules, according to Caseworker Urban. Mother claimed the Shelter was not clean and had bed bugs so she took her Minor Children to Buffalo, New York to stay temporarily until, as Mother claimed, she could find permanent housing. Mother claimed ECCYS gave her the application to stay at the Shelter. Caseworker Urban had no contact at all with Mother since Caseworker Urban took over the case and did not know whether Mother had contact with the prior caseworker.

Minor Children are placed in Kinship Homes, but these Kinship Homes are not permanent resources. Caseworker Urban believes if these Minor Children were free for adoption, "it would be easier to find a family for them." *N.T.*, 49:7-8. A kinship resource in Ohio was being explored as a permanent resource for Minor Children, but ECCYS was not able to use her as a permanent resource as her home study was not approved. Her housing was only marginal, and she has a criminal record. *N.T.*, 49:9-18.

Caseworker Urban stated Mother provided no monetary support for her Minor Children. Mother had not asked how her Minor Children were doing, and Mother had not asked how Minor Child D.I.S. was doing in school. *N.T.*, 55:1-14. Mother could have asked ECCYS for assistance in finding housing for her and Minor Children. Minor children are not bonded with Mother since the Minor Children have been bounced around with different family members their whole lives. *N.T.*, 57:5-13. Minor children, however, are bonded with their Kinship Caregivers, their foster parents. *N.T.*, 57:17-25; 58:1-11. Mother's rights should

be terminated. There would be “an ill effect for the children not to terminate the rights” because Minor Children deserve permanency and stability. *N.T.*, 58:1-11. “They’ve spent the last year, even though with kinship and their bond is to the kinship, those kinships are not permanent homes for them.” *N.T.*, 58:5-11. The Minor Children do not get to be together every day. Caseworker Urban “believe[s] it would be in their best interest for them to be somewhere that was going to be a permanent home and for them to be placed together.” *N.T.*, 58:8-11. The Minor Children do not get to be together every day as siblings and the best scenario for Minor Children is to be together with one adoptive resource, which can be accomplished if Minor Children were freed for Adoption. *N.T.*, 58:2-11.

Erie County Adult Probation and Parole Supervisor Craig L. Christensen credibly testified. He is the supervisor of Mother’s Probation Officer, Ryan Platz. Officer Platz began supervising Mother on June 5, 2019, and Mother is still on supervision. *N.T.*, 60:15-18; 60:23-25. When Mr. Platz lost contact with Mother, which caused an arrest warrant to be issued for Mother on February 19, 2021. *N.T.*, 61:1-10. According to Supervisor Christensen, the last detainer was placed against Mother on May 13, 2021. At that time, Mother had at least two pending dockets against her. *N.T.*, 61:17-24. At Docket No. 1854 of 2021, a Preliminary Hearing was held on August 30, 2021. Mother is facing Manufacturing Delivery or Possession with Intent to Manufacture or Deliver, Flight to Avoid Apprehension and Possession of a Controlled Substance with an offense date of May 12, 2021. Supervisor Christensen indicated the Possession with Intent to Deliver was withdrawn by the lower court. *N.T.*, 62:1-11. Mother also has two other matters with Magisterial District Judge Bizzaro. At Docket No. 40 of 2021, Mother faces charges of Possession of Marijuana, Use or Possession of Drug Paraphernalia, Escape, and Flight to Avoid Apprehension with an offense date of January 13, 2021, waived over to court. *N.T.*, 62:16-23. At Docket No. 247 of 2020, Mother has a Retail Theft with an offense date of February 10, 2020, bound over to court on August 13, 2021. *N.T.*, 63:1-4.

Mother is currently being supervised on five (5) dockets, which are 659 of 2019; 351 of 2019; 574 of 2017; 1357 of 2016 and 2859 of 2016. Once the new charges are dealt with, Mother may face revocation on the five (5) dockets for which she is presently being supervised. *N.T.*, 63:11-18. Mother is currently detained in the Erie County Prison. The Preliminary Hearing would have met the Gagnon I standard. At this point, Erie County Adult Probation is waiting for disposition of her current charges, and then Probation will move forward with any possible revocation. Some of the charges Mother is facing are felony charges.

Julie Lafferty, a Supervisor at ECCYS, employed there for fourteen (14) years, nine (9) of which she has been a supervisor. She provided credible testimony. Ms. Lafferty was the supervisor of the previous caseworker, Caseworker Moffett, during her involvement in this case. *N.T.*, 67:24-25; 68:1. ECCYS became open with this family prior to Minor Child D.I.S. and Minor Child D.S. being removed in June. Initially, these Minor Children were an open case with ECCYS when Mother was incarcerated and her older daughter became dependent. The older daughter was residing with an aunt and had some medical issues that needed addressed due to the fact both Mother and Biological Father were incarcerated. *N.T.*, 68:7-15. At that time, Minor Child D.S. and Minor Child D.I.S. were staying with their Father and were closed out during the initial investigation. ECCYS officially closed the case with Father on November 13, 2019.

ECCYS became involved again January 17, 2020, when Father became incarcerated. Mother was not providing the Minor Children with much care at this time. Mother was at Shelter when ECCYS got a referral for Minor Child D.S. in regards to a hernia. *N.T.*, 69:3-5. The hospital called with concerns Mother was stealing food to provide for her Minor Children. Mother was homeless after Mother’s house caught on fire, and she had to stay at a Shelter. Mother bounced around for a while with her friends because she was waiting for the Family Room to open up at the Shelter to remain in compliance with her Probation Officer. ECCYS did supervised visitations with Mother and her three Minor Children which included Minor Child D.S. and Minor Child D.I.S. while they were altogether at the Shelter. This was around January of 2020 Mother had three children altogether in her care.

Supervisor Lafferty stated bed bugs were never brought up to Caseworker Moffett’s attention. Caseworker Moffett was at the Shelter to supervise visits between Mother and her older daughter who was in placement. At this time in January of 2020, Minor Child D.I.S. and Minor Child D.S. were at Shelter with Mother. *N.T.*, 70:10-25. In February of 2020, ECCYS was told by the Shelter that Mother was asked to leave because she could not follow the rules. *N.T.*, 71:7-12.

In March of 2020, ECCYS lost contact with Mother who did not ask for assistance for alternative housing or any other assistance from ECCYS. Mother has been involved with ECCYS as an open case beginning October of 2019. *N.T.*, 71:22-25.

Mother was aware of the terms and condition of her treatment plan and what she needed to do and what needed to occur for Dependency Court. Her treatment plan is ultimately the same for her older daughter S as it was for Minor Child D.S. and Minor Child D.I.S. It was the same treatment plan for her older daughter’s case. *N.T.*, 72:1-9. This treatment plan was explained in detail to Mother by the Dependency Court judge in an on the record colloquy. Caseworker Moffett also had subsequent conversations with Mother as to what she needed to do. Mother signed releases for her mental health services; however, ECCYS has not been able to verify whether Mother had any compliance since on or about March of 2020 by Mother. *N.T.*, 72:6-14; 72:17-25. ECCYS stated no issue existed with bed bugs at the Shelter, to its knowledge. *N.T.*, 73:1-4.

H.S., as Minor Child D.S.’s kinship provider, credibly testified as the maternal sister-in-law. H.S. and her husband, J.S., provide care only for the three year old, Minor Child D.S. At the time of this IVT trial, Minor Child D.S. had been in their care for “a little over fourteen months.” *N.T.*, 80:9. Prior to his placement in her and her husband’s care, H.S. had had limited interactions with Minor Child D.S. and Mother. When H.S. would see Mother, “it was holidays or birthdays and everything seemed fine.” *N.T.*, 79:13-15. H.S. has facilitated interactions between Minor Child D.S. and Minor Child D.I.S. Over the last fourteen months, Mother had had no formal visitation with the Minor Children. *N.T.*, 80:10-12. Mother contacted H.S. and her husband “during the entire time” Minor Child D.S. has been in their care by leaving gifts on their porch or would “try to meet to give money and we refused.” *N.T.*, 80:18-20. They refused because they “were trying to follow the rules of the law.” *N.T.*, 80:21-22.

These kinship providers knew about the rules regarding Mother’s visitation from ECCYS. Mother was allowed telephone contact with each Minor Child and exercised said telephone contact by calling H.S. and J.S. Prior to Mother being incarcerated, Mother contacted these Minor Children at least once monthly. When Mother was incarcerated, Mother contacted the Minor Children several times a week by telephone, not letters. These kinship providers

would monitor Mother's telephone calls by placing her calls on speaker, "but Minor Child D.S. knows she's on the phone and he'll say, is that aunty, my mommy, stuff like that." *N.T.*, 81:21-25; *N.T.*, 82:1-2. Mother is "very careful" in these conversations with Minor Children because she knows H.S. is there listening.

Mother offered on several occasions to bring money to Minor Children, and J.S. "just refused." *N.T.*, 82:11-12. However, Mother placed money in Easter eggs and gave them to the Minor Children. H.S. and J.S. provide Mother with information about the Minor Children, and they have offered and given Mother photos "and things like that." *N.T.*, 82:11-20. These kinship providers are not permanent resources for Minor Child D.S. since they thought they were only there to help on an emergency, temporary basis for Mother and Father. They had hoped for Father "or what his future holds," if not Mother, to reunify with the Minor Children. H.S. and J.S. were relying on the prior ECCYS Caseworker who claimed to be trying to reunify Mother and/or Father so H.S. and J.S. "always held tight just hoping." *N.T.*, 83:4-13. Minor Child D.S. does say mommy or "Mommy A." regarding his Mother. *N.T.*, 83:16-18.

H.S. knows this three-year-old Minor Child's emotions having taken care of him over the last fourteen months. And as to whether Minor Child D.S. would be negatively impacted if his Mother's rights were terminated, H.S. stated, "my honest opinion is that [Minor Child D.S.] being 3 will be fine." *N.T.*, 86:14-15. H.S. further stated, "He's resilient and he's – he attaches to people easily so he would be okay. However, I can't testify for her older children." *N.T.*, 83:15-17.

H.S. further stated Minor Child D.S. has endured some lifetime confusion causing some instability in his life; therefore, he deserves a permanent, stable home. *N.T.*, 87:9-13. H.S. understood Mother "is facing a possibly lengthy incarceration given the current state of [her] affairs." *N.T.*, 83:15-18. H.S. responded sincerely she did not think it was fair for Minor Child D.S. to live in an uncertain environment waiting for Mother to become stable again.

H.S. stated when the Minor Children visit with each other, they get along great with each other and are upset when they are separated from each other to return to their respective Kinship homes. Minor Child D.S. and Minor Child D.I.S. are bonded to each other. H.S. stated she cannot be a permanent resource for both of these Minor Children which is what ECCYS is searching for, but this is the hardest decision that H.S. and J.S. have ever made in their lives. It is hard for her to share Minor Child D.S. moving forward with the family who continue to want to be a part of his life just as much as H.S. and J.S. want to. *N.T.*, 90:5-13.

Mother provided testimony. She testified she is currently incarcerated in the Erie County Prison under two dockets as well as has former convictions for which she is under adult probation supervision. Her Probation Officer detained her. Mother testified as to her various outstanding charges and/or resolved charges that include marijuana and retail theft. She admits these charges have not "been actually resolved yet." *N.T.*, 93:1-14. Mother admitted she did not follow much of what the Court asked her to do in the treatment plan. Mother testified she had not done so because she had no residence, and she testified she did not know when she had to attend her Dependency hearings. She testified she did not stay at the Shelter because the Shelter had alleged bed bugs and she testified that the Shelter was not a safe place for her and her Minor Children. She testified she violated the Shelter's rules by hoarding food in her room despite the Shelter providing food for her and her Minor children three times a day. Mother testified she needed to have snacks for her Minor Children. She

testified she had to leave the Shelter, in addition to the alleged bed bugs, due to the Shelter not being clean. Mother testified she was asked ultimately to leave the Shelter for hoarding food as snacks for her Minor Children. Mother denied being asked to leave the Shelter due to a fight, and she denied she brought drugs into the Shelter.

Mother testified someone started a fire at the home she owned so that is why she was at the Shelter. Mother testified as to injuries she received from someone named L.S. who hit her with a bat. As a result Mother has scars on her head, and she went to Safe Harbor for medications. And she testified that if she had a card for marijuana, the authorities would then have no problem with her usage of marijuana. She testified she used marijuana because she did not want to take "a lot of pills" and marijuana calmed her down. *N.T.*, 97:10-19. She claimed her resulting head trauma only affects her a little bit, and this injury did not interfere with her ability to care for her Minor Children. She would receive medication and therapy, she claimed, at Safe Harbor but provided no corroborating evidence of such medication and therapy. She claimed to have brought her Minor Children to her mental health appointments while they were all living at the Shelter. She testified her BCM would come to the Shelter to check up on her. She received disability payments. She testified she did not know which way to turn when Covid occurred. *N.T.*, 99:5-25.

Mother testified in a confusing manner about her Probation Officer and how he knew where she was located but he still asked the Court to issue warrants for her arrest. She testified her other warrants were "outdated." *N.T.*, 100:10-21. Mother admitted to being on the run and claimed to have had clean urines. She claimed she did not call her caseworker because she did not know the identity of her caseworker. Mother admitted she did not follow her treatment plan as ordered by Dependency Court. She testified, "that was not a good decision on my part, but if I had a stable place and a good contact and like Erica [her past caseworker] was on me all the time and I never had any type of contact with the new people." Mother testified she thought everything was "legit," and she did not know anything was still open or doing anything with the court as to her Minor Children. She testified she provided gifts and talked to her Minor Children in Kinship care over the telephone. She testified she has a plan now to live with her aunt, and her plan would be to work at a particular fast food restaurant where she knows the manager, but she provided no proof of such employment.

Mother testified she does not really know when she will be released from incarceration. She testified she wanted the IVT Court to give her more time to achieve reunification now that she claimed to have a permanent residence. Mother testified to a complex amount of criminal charges, old and new, and possible revocations. Mother claimed incarceration did not stand in her way for taking care of her Minor Children since her family will perform her duties of raising her Minor children for her. *N.T.*, 109:3-14. Mother admitted it was okay for her Minor Children to be cared for by relatives so her Minor Children can wait for her to become stable again. She claimed she knows her Minor Children will be in good hands with her family instead of being with someone else. She claimed her Minor Children's best interests were to be in the care of her family "instead of them was going through what [she] was going through." *N.T.*, 114:11-17.

Mother testified to dropping urines for Probation with Safe Harbor but provided no proof of such claims. Mother admitted to not contacting ECCYS from June 25 of 2020 until May 13, 2021, because she did not think she had to do so since her family had her Minor

Children. *N.T.*, 118:17-24. Mother testified her family “stuck to their guns and told [her], like, I couldn’t see them, but I was still confident with the children.” *N.T.*, 119:2-5. In response to whether her Minor Children are supposed to wait for her to become stable, Mother testified, “I’m sticking with it until I get stable because I am going to get stable.” *N.T.*, 119:13-16.

Mother admitted to being arrested twenty-one (21) times dating back to 2005, for the last sixteen years. Then Mother minimized her lengthy record as “not harsh sentences.” *N.T.*, 120:4-21. Mother admitted at least 11 or 12 theft related offenses by stating rhetorically, “Okay. You cannot judge a book by its cover, can you?” *N.T.*, 120:14-18.

This IVT Court did not have the benefit of being the Dependency Court judge so Mother’s claims of lack of notice, etc. were of concern to this IVT Court. All counsel agreed with no objection by the parties or counsel that the IVT Court could have access to the transcript of the First Permanency held on September 18, 2020, wherein another trial judge, a Dependency Court judge, had the benefit of interacting early with the Mother. *N.T.*, *Dependency*, 9/18/2020. Mother appeared by telephone for this hearing representing herself. At this First Permanency Hearing, due to her lack of compliance, Attorney Kevin Jennings, as Assistant Solicitor for ECCYS, was requesting a concurrent goal for Adoption and a three-month review. He stated Mother had done no work on her treatment plan. Attorney Jennings also indicated if Mother continues with no compliance, he “will no doubt be asking for adoption in three months.” *N.T.*, *Dependency*, 4:9-17.

According to the GAL, Minor Child D.I.S. “was experiencing some angry episodes.” *N.T.*, *Dependency*, 5:4-6. The ECCYS Caseworker, Erica Moffett, stated she made referrals for psychological services for him to two services. His aggression had escalated with the other children in the kinship home. Caseworker Moffett also explained the confusion with his school laptop and Mother’s interference and involvement. She stated Mother had called the school about the laptop and a grandmother was supposed to pick up the laptop. Caseworker Moffett informed the school that that was not correct in that either herself as the caseworker or the Kinship provider B.S., not Mother, would take care of the laptop. After that, Caseworker Moffett and the Kinship provider were able to resolve the laptop issue. Then Caseworker Moffett explored with the Kinship provider, B.S., as to whether she had contact with Mother because the school indicated Mother had called the school. Mother claimed, “she was calling the school and couldn’t get in touch with nobody and wondering why my son was not in school.” *N.T.*, *Dependency*, 7:8-10. However, Caseworker stated she herself had not heard from Mother since the end of August. Mother should have communicated with Caseworker Moffett instead of adding to the confusion. Mother had stipulated and thereby knew this Minor Child D.I.S. had been adjudicated dependent. Mother was to work through Caseworker Moffett as to any issues with school. Mother added to the confusion. Moreover, Mother interrupted the testimony at this hearing defending her inappropriate actions of contacting the school and interjected she claimed to do so as a “concerned parent.” *N.T.*, *Dependency*, 7:8-10.

The GAL addressed how Mother should be working on her treatment plan instead of interfering with this Minor Child D.I.S.’s schooling. The GAL discussed, first of all, the impressive progress that the Minor Child D.S., the younger sibling, has had in the foster home and how well he was doing there. Minor Child D.S. “made some significant strides since being placed there on June 11, especially with walking – or not walking, with potty training and talking.” *N.T.*, *Dependency*, 10:16-22. The GAL further stated, “Which it’s

my understanding when he first got there he was hardly saying anything, even though he’s going to be 3 years old in another month.” *N.T.*, *Dependency*, 10: 22-25. The GAL, however, indicated her concern about Minor Child D.I.S.’s anger and schooling issues as well as the GAL “believe[d] the mom calls him daily, but she has yet to do any part of her treatment plan.” *N.T.*, *Dependency*, 11:4-7. Mother has failed to complete anything in the treatment plan yet Mother maintained contact with her children daily, “possibly giving them false hope of, you know, returning or something, but she’s not doing anything to be compliant.” *N.T.*, *Dependency*, 11:7-12. Mother’s interjection of directly calling Minor Child D.S. daily was affecting Minor Child D.I.S. whose anger issues were increasing.

The Dependency Court judge then permitted Mother to weigh-in to provide testimony for his decision as to whether he would implement a concurrent goal of Adoption with the Reunification goal. The Dependency Court judge explained to her how he has “to get to some timely decision on behalf of these kids to give them something permanent.” *N.T.*, *Dependency*, 12:5-8.

Mother testified she was currently on the run from the authorities and incredulously testified she cared about her children. Mother claimed to be clean of drugs, but she failed to provide proof of such to the Dependency Court. Mother indicated she was 34 and “have been going through a lot of things.” *N.T.*, *Dependency*, 13:22-25. Mother indicated she was “unable to do the tasks that they want me to do to go forward with getting my kids.” She apologized about that. Mother said if her family wanted to adopt her children, she knew she had no choice because the Kinship providers were family. However, the Dependency Court judge informed Mother the goal was to reunify her with her Minor Children, but she had to follow through with the treatment plan and this was her first review hearing. The Dependency Court judge noted and clearly informed Mother had done nothing in the treatment plan to-date and, therefore, made a finding “you’ve engaged in no compliance.” *N.T.*, *Dependency*, 15:2-3. Despite no compliance, Mother received more opportunities from the Dependency Court judge to comply when he stated, **“But we’re going to keep the treatment plan in place and we’re going to set this for a six month review. In six months – I’m telling you today that I had better see full compliance with the treatment plan between now and the next hearing. Do you understand that?”** Whereupon Mother answered, **“Yes, sir.”** *N.T.*, *Dependency*, 15:11. (Emphasis added).

**The Dependency Court judge further stated to Mother, “And this isn’t something – it’s not the agency – OCY’s job to get you to comply. It’s not their job to make sure you’re in contact with your children and know what’s going on. It’s your job. You need to maintain regular contact with your caseworker and you’re to start complying with the terms and conditions of the treatment plan. Do you understand that?” And whereupon Mother again responded, “Yes, Sir.”** *N.T.*, *Dependency*, 15:12-20. (Emphasis added).

The Dependency Court judge clearly explained to Mother each term and condition of her treatment plan as follows, and this IVT Court includes the pertinent sections of the colloquy below to put them in context:

Judge: I’m not making any decision about adoption today. Our primary goal for you is reunification with your children. Okay.

Mother: Yes.

Judge: In order for you to reunify, we have a treatment plan. My decision about whether



or not to change the goal to adoption will depend on whether you can follow through with treatment. This is just our first review, and as of today, you've done nothing to follow through with the treatment plan. So I'm going to make a finding that you've engaged in no compliance. Okay.

Mother: Well –

Judge: But we're going to keep the treatment plan in place and we're going to set this for a six month review. In six months – I'm telling you today that I had better see full compliance with the treatment plan between now and the next hearing. Do you understand that?

Mother: Yes, sir.

Judge: And this isn't something – it's not the agency – OCY's job to get you to comply. It's not their job to make sure you're in contact with your children and know what's going on. It's your job. You need to maintain regular contact with your caseworker and you're start complying with the terms and conditions of the treatment plan. Do you understand that?

Mother: Yes, sir.

Judge: Here are the terms and conditions of your treatment plan. You're to refrain from the use of drugs and alcohol and submit to random urinalysis as well as the Color Code program at Esper Treatment Center. A no-show will be considered a positive. Do you understand?

Mother: "Yes, sir."

Judge: You will participate in a drug and alcohol assessment and follow all treatment recommendations. If recommended treatment, you will be required to gain an understanding of how your drug use effects your mental health and your decision making. Do you understand that?

Mother: Yes.

Judge: You will participate in mental health assessments and follow all treatment recommendations. Do you understand?

Mother: Yes.

Judge: You will obtain and maintain gainful employment or provide the agency with some documented proof of an inability to work and any income that you might be drawing. Do you understand?

Mother: Yes.

Judge: You have to obtain and maintain safe and stable housing and provide proof of the housing. It's not that you're going get it, but you're going to provide the agency proof of your housing. And that household will have to be approved by the agency, because we want to make sure it's safe for your kids. Do you understand that?

Mother: Yes sir.

Judge: Apparently you're on probation.

Mother: Yes.

Judge: You're going to comply with any and all guidelines from Erie County Probation. Are you on the run from something now, is that what you're telling me?

....

Judge: ....What I'm trying to figure out is what your status is with probation, which is a requirement to reunify with your kids, if you're on the run from probation. Do you understand that?

Mother: Correct. Yes, sir.

Judge: You need to sign any and all releases of information that the agency wants so that they can get the information to prove whether you're doing the things that you're saying you're doing. Do you understand those conditions of your treatment plan?

Mother: Yes, sir.

*N.T., Dependency, 15:21-25; 16:1-25; 17:1- 8; 17:15-25; 18:1 -2.*

Also the Dependency Court judge confirmed Mother's mailing address as to where the Court has been and will be sending her information such as the treatment plan. Mother stated it was 2216 German Street in Erie. She also confirmed she was receiving information already sent to her. However, at the IVT hearing, Mother's testimony appeared confusing as to whether she knew the details of her treatment plan and the necessary steps she needed to fulfill to reunite with her Minor Children.

Moreover, Mother's record includes several offenses involving dishonesty such as crimen falsi crimes that affect her credibility as a witness. This IVT Court finds her testimony was not credible. Mother was fully informed, in detail, by the Dependency Court judge as to what she needed to do to comply with the treatment plan tailored to meet her needs in order to reunify her with her Minor Children. Moreover, she failed to avail herself of any of the programs ECCYS had available for her to meet the requirements and recommendations of her treatment plan, despite the efforts of the Dependency Court judge.

## ANALYSIS AND CONCLUSIONS OF LAW

Case law is clear "[p]arental rights may be involuntarily terminated where any one subsection of Section 2511 (a) is satisfied, along with consideration of the subsection 2511 (b) provisions." *In re Z.P.*, 994 A.2d 1108, 1117 (Pa. Super. 2010).

The party petitioning for termination of parental rights has the burden of proving by clear and convincing evidence the parent's conduct satisfies statutory grounds for termination under Section 2511(a). *In re L.M.*, 923 A.2d 505, 511 (Pa. Super. 2007). The trial court is the finder of fact who is the sole determiner of the credibility of witnesses and resolves all conflicts in testimony. *Id.* at 1115-1116. Pursuant to 23 Pa.C.S. § 2511, the trial court must conduct a bifurcated analysis wherein the court's initial focus is on the conduct of the parent. *In re L.M.*, 923 A.2d at 511. Only if the court determines a parent's conduct necessitates termination of her parental rights under Section 2511(a), the court then proceeds to decide the second part of the bifurcated analysis as to the needs and welfare of the child under the standard of best interests of the child under Section 2511(b). *Id.*

The specific relevant statutory grounds for terminating involuntarily a parent's rights are stated in 23 Pa.C.S. § 2511(a)(1), (2), (5), and (8) as well as 23 Pa.C.S. § 2511(b):

### § 2511. Grounds for involuntary termination

**(a) General rule.** — The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds: The parent by conduct continuing for a period of at least six months immediately preceding the filing of the petition either has evidenced a settled purpose of relinquishing parental claim to a child or has refused or failed to perform parental duties.

(1) The repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied by the parent.

...

(5) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency for a period of at least six months, the conditions which led to the removal or placement of the child continue to exist, the parent cannot or will not remedy those conditions within a reasonable period of time, the services or assistance reasonably available to the parent are not likely to remedy the conditions which led to the removal or placement of the child within a reasonable period of time and termination of the parental rights would best serve the needs and welfare of the child.

...

(8) The child has been removed from the care of the parent by the court or under a voluntary agreement with an agency, 12 months or more have elapsed from the date of removal or placement, the conditions which led to the removal or placement of the child continue to exist and termination of parental rights would best serve the needs and welfare of the child.

...

**(b) Other considerations.** — The court in terminating the rights of a parent shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. The rights of a parent shall not be terminated solely on the basis of environmental factors such as inadequate housing, furnishings, income, clothing and medical care if found to be beyond the control of the parent. With respect to any petition filed pursuant to subsection (a)(1), (6) or (8), the court shall not consider any efforts by the parent to remedy the conditions described therein which are first initiated subsequent to the giving of notice of the filing of the petition.

Generally, Pa.C.S. §2511(a) states parental rights to a child may be terminated if any one of the grounds under Section 2511(a) is proven by clear and convincing evidence. *In re Z.P.*, 994 A.2d at 1117. In a termination of parental rights case, the standard of “clear and convincing evidence” means the testimony is so “clear, direct, weighty, and convincing” for the trial judge as the trier of fact to arrive at “a clear conviction, without hesitation, of the truth of the precise facts in issue.” *Id.* at 1116.

“Parents are required to make diligent efforts toward the reasonably prompt assumption of full parental responsibilities.” *In re Z.P.*, 994 A.2d at 1117-1118 (quoting *In re A.L.D.*, 797 A.2d at 340). “A parent’s vow to cooperate, after a long period of uncooperativeness regarding the necessity or availability of services, may properly be rejected as untimely or disingenuous.” *Id.* at 1118 (quoting *In re A.L.D.*, 797 A.2d 326, 340 (Pa. Super. 2002)). The meaning of parental duties is:

There is no simple or easy definition of parental duties. Parental duty is best understood in relation to the needs of a child. A child needs love, protection, guidance, and support. These needs, physical and emotional, cannot be met by a merely passive interest in

the development of the child. Thus, this court has held that the parental obligation is a positive duty which requires affirmative performance. This affirmative duty encompasses more than a financial obligation; it requires continuing interest in the child and a genuine effort to maintain communication and association with the child. Because a child needs more than a benefactor, parental duty requires that a parent exert himself to take and maintain a place of importance in the child’s life. Parental duty requires that the parent act affirmatively with good faith interest and effort, and not yield to every problem, in order to maintain the parent-child relationship to the best of his ... ability, even in difficult circumstances. A parent must utilize all available resources to preserve the parental relationship, and must exercise reasonable firmness in resisting obstacles placed in the path of maintaining the parent-child relationship. Parental rights are not preserved by waiting for a more suitable or convenient time to perform one’s parental responsibilities while others provide the child with the child’s physical and emotional needs.

*In re Z.P.*, 994 A.2d at 1118-1119 (quoting *In re B.*, *N.M.*, 856 A.2d at 855).

With the above specific Findings of Fact and after a review of the relevant statutory law and case law, *see In re Adoption of B.G.S.*, 240 A.3d 658, 663 (Pa. Super. 2020), this IVT Court, therefore, made specific Conclusions of Law.

“A court may terminate parental rights under Section 2511(a)(1) where the parent demonstrates a settled purpose to relinquish parental claim to a child or fails to perform parental duties for at least six months prior to filing of the termination petition.” *In re Z.P.*, 994 A.2d at 1117 (citing *In re C.S.*, 761 A.2d 1197, 1201 (Pa. Super. 2000)). “Our Supreme Court has stated: ‘Section 2511 does not require that the parent demonstrate both a settled purpose of relinquishing parental claim to a child and refusal or failure to perform parental duties. Accordingly, parental rights may be terminated pursuant to Section 2511(a)(1) if the parent either demonstrates a settled purpose of relinquishing parental claim to a child or fails to perform parental duties.’” *In Re: I.B.T.L., A Minor Appeal of: S.L., Mother*, 1230 MDA 2020 (Pa. Super. Ct. April 9, 2021) (quoting *In re Adoption of Charles E.D.M.*, 708 A.2d 88, 91 (Pa. 1998)). “The court should consider the entire background of the case and not simply: mechanically apply the six-month statutory provision. The court must examine the individual circumstances of each case and consider all explanations offered by the parent facing termination of his ... parental rights, to determine if the evidence, in light of the totality of the circumstances, clearly warrants the involuntary termination.” *In re Z.P.*, 994 A.2d at 1117 (quoting *In re B.*, *N.M.*, 856 A.2d 847, 855 (Pa. Super. 2004)).

With regard to 23 Pa.C.S. § 2511(a)(1), this IVT Court considered the entire background of this case and, as indicated by case law, did not simply mechanically apply the six-month statutory provision as to each Minor Child. The timeline of Mother’s progress and/or the lack of her progress were definitely considered as reflected in the Findings of Fact above.

ECCYS had been looking for Mother and her Minor Children since January of 2020, for about six (6) months. ECCYS was trying to locate Minor Children to verify their safety and welfare. Despite ECCYS’s efforts, these Minor Children and Mother were unable to be located as they were “missing in action.” Both Minor Children were ultimately found in Buffalo, New York, where Minor Children were subjected to possible abuse and then taken to a hospital to address injuries. Buffalo CYS became involved. Minor Child D.S. had subdural hematoma.

Mother had placed Minor Children with paternal family members in Buffalo, and Mother left the Minor Children there. No charges were ever filed, as per Caseworker Urban, regarding abuse. Both Minor Children were returned to Erie as ECCYS was open with this family with an older child. This abuse will have lasting injuries on Minor Child D.S.

On June 11, 2020, ECCYS obtained emergency custody of both Minor Children, but whereabouts of Mother were unknown at that time so these Minor Children had to be placed.

Mother's urinalysis testing results during life of Minor Children's dependency proceedings from June 30, 2020 to February 26, 2021 were: ninety-six (96) "no-shows" indicated as positive results.

Pre-Dispositional Summary for Dispositional hearing on June 25, 2020, revealed Mother "has pending charges regarding retail thefts on February 10, 2020, and February 18, 2020." Mother is supervised by an Erie County Adult Probation for other charges. Mother has an extensive criminal history.

On June 29, 2020, upon finding allegations of abuse, neglect or dependency of both Minor Child D.I.S. and Minor Child D.S., the best interest of each Minor Child was removal from home of Mother and Father. Mother was directed to comply with her seven point treatment plan to reunify her with her Minor Children as indicated and delineated in the above Findings of Fact.

On September 18, 2020, at the Initial Permanency Review Hearing, mother appeared by telephone and represented herself. Dependency Court found Mother had no compliance with the permanency plan and Mother made no progress toward alleviating the circumstances that necessitated the original placement. Mother continued to report she was residing in Erie, but she was not turning herself into the authorities due to a current warrant for her arrest for retail theft charges. Mother missed criminal court hearings. Mother did not desire to discuss how her actions impacted her Minor Children. Mother continued to live the street life. Mother had contacted her Minor Children by telephone and Facebook Messenger, and Minor Children were happy to hear from her.

The Dependency Court judge carefully reviewed with Mother her treatment plan, and Mother confirmed affirmatively on the record she understood each and every term and condition of her treatment plan on the record. He cautioned her about her need to comply with her treatment plan so she could reunify with her minor Children.

On March 1, 2021, a second Permanency Review Hearing was held wherein Mother was found again to have no compliance with the treatment permanency plan. Mother had no progress toward alleviating the circumstances which necessitated the original placement.

On May 10, 2021, at the Third Permanency Review Hearing, Mother again had no compliance with the permanency treatment plan, and Mother lacked progress toward alleviating circumstances that necessitated the original placement. Specifically, the Court Summary dated May 10, 2021, states, "there has been no contact with Mother since the last court hearing and no services were offered to her during this review period."

Mother's criminal history is extensive.

The Six Month Review occurred in March of 2021. Neither Mother nor Father attended. When Caseworker Urban was assigned this case on November 23, 2020, she tried to make contact with Mother with all the telephone numbers she had for her, but to no avail for all of Mother's telephone lines were disconnected. Ongoing Caseworker Urban had no contact

with Mother from the time she took over the case in November 23, 2020 to the time of the Permanency hearing in March of 2021. ECCYS did not receive any letters or information from Mother asking how her Minor Children were doing. Mother sent no gifts to her Minor Children for this time period of November 23, 2020 through March 1, 2021. Mother did not appear for urine screens. Mother did not do a drug and alcohol assessment and did not do a mental health assessment. Nothing was done by Mother.

No visitation occurred between Mother and either Minor Child from the time Minor Children were detained to the March hearing in 2021. At that time, even though no contact occurred with Mother, Caseworker Urban still had reunification as the goal. Dependency Court scheduled a shorter review of sixty (60) days at the March hearing. Dependency Court directed no more services be offered to Mother for reunification since Mother made no progress. Caseworker Urban then focused on Father at that time. Dependency Court ordered a two (2) month review to see whether either Mother or Father complied in this case. Neither Mother nor Father were there to participate at that hearing.

At the hearing on May 10, 2021, Caseworker Urban requested the goal be changed to Adoption because no progress had been made on Father's treatment plan, and both Minor Children were deserving of permanency. Both Minor Children still remained in Kinship Care homes. These Minor Children need love, protection, guidance, and support that are not being met by Mother. Their physical and emotional needs cannot be met by a parent who has a merely passive interest in their development. Mother, in the instant case, has failed to perform her parental obligation as a positive duty and in an affirmative and genuine way. Mother "talks the talk" but has failed to demonstrate she is capable of walking the walk in order to take and maintain a place of importance in her Minor Children's lives. Mother has failed to exercise reasonable firmness in resisting obstacles placed in the path of maintaining her parent-child relationships. Mother cannot expect that her parental rights will be preserved by waiting for a more suitable or convenient time for her to perform her parental responsibilities. Others, her family members, instead have stepped up to the plate to provide for her Minor Children's physical and emotional needs. Mother cannot expect her family members to be placeholders to fill her place temporarily as a Mother in order to keep her parental role open for her to step in when she finally gets her life together. Moreover, the record demonstrates Mother has failed to utilize all available resources that the Courts and ECCYS have offered her in order to preserve her parental relationship and reunify with her Minor Children.

After examining the individual circumstances of each Minor Child's case and considering all explanations offered by Mother facing termination of her parental rights, the evidence, in light of the totality of the circumstances, clearly supports this IVT Court's terminating Mother's parental rights as to each Minor child, specifically Minor Child D.I.S. and Minor Child D.S. under 23 Pa.C.S. § 2511(a)(1). Indeed, ECCYS met its burden of proof with clear and convincing evidence that Mother's conduct satisfied statutory grounds for termination under Section 2511(a)(1). The evidence, including but not limited to, numerous Exhibits and testimony are so "clear, direct, weighty, and convincing" for this IVT judge as the trier of fact to have arrived at "a clear conviction, without hesitation, of the truth of the precise facts in issue" regarding Mother. Mother by her conduct demonstrated a settled purpose for at least a period of six months to relinquish her parental claim to each Minor Child. Moreover,

these Findings of Facts above also support and demonstrate Mother failed to perform her parental duties for at least six months prior to the filing of each Termination Petition.

Therefore, under 23 Pa.C.S. § 2511(a)(1), ECCYS proved by clear and convincing that Mother deprived each Minor Child of essential care and control prior to the filing of these Petitions to Terminate Involuntarily Mother's parental rights. ECCYS proved by clear and convincing evidence that for a period of at least six months Mother evidenced settled purposes in relinquishing her parental claims as to each of these Minor Children, and Mother failed and refused to perform her parental duties regarding each Minor Child.

Regarding 23 Pa.C.S. § 2511(a)(2), "the following three elements must be met: (1) repeated and continued incapacity, abuse, neglect or refusal; (2) such incapacity, abuse, neglect or refusal has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied." *In re: Involuntary Termination of Parental Rights: A.T.V., A Minor Appeal of: H.M., Mother*, 1243 MDA 2020, 2021 WL 1235223, at \*5 (Pa. Super. Ct. Apr. 1, 2021) (quoting *In re Adoption of M.E.P.*, 825 A.2d 1266, 1272 (Pa. Super. 2003)). "Unlike subsection (a)(1), subsection (a)(2) does not emphasize a parent's refusal or failure to perform parental duties, but instead emphasizes the child's present and future need for essential parental care, control or subsistence necessary for his physical or mental well-being. Therefore, the language in subsection (a)(2) should not be read to compel courts to ignore a child's need for a stable home and strong, continuous parental ties, which the policy of restraint in state intervention is intended to protect. This is particularly so where disruption of the family has already occurred and there is no reasonable prospect for reuniting it." *In re Z.P.*, 994 A.2d at 1117 (quoting *In re E.A.P.*, 944 A.2d 79, 82 (Pa. Super. 2008)). "Thus, while 'sincere efforts to perform parental duties,' can preserve parental rights under subsection (a)(1), those same efforts may be insufficient to remedy parental incapacity under subsection (a)(2)." *In re Z.P.*, 994 A.2d at 1117 (quoting *In re Adoption of M.J.H.*, 501 A.2d 648 (Pa. Super. 1985)).

As to 23 Pa.C.S. § 2511(a)(2), since residing in his Kinship home, Minor Child D.S. is making more progress with his speech; using words to ask for things; and answers questions in short simple answers. His Kinship family is monitoring his progress, and he continues to improve in his communications. He had suffered a seizure from a traumatic subdermal hemorrhage on May 29, 2020, when his Mother placed the Minor Children to reside in Buffalo, New York. The New York authorities determined his injury was intentional and greater than 28 days.

Minor Child D.I.S. has also endured a lot of trauma in his short life. He is an intelligent child and personable, but has a hard time expressing emotions without getting aggressive. He appears to do well with one-on-one interaction and needs structure and consistency. He has witnessed domestic violence while residing with Mother. He has not disclosed abuse, but there is some concern this Minor Child experienced abuse and neglect in Buffalo, New York. Minor Child D.I.S. has been physically aggressive toward his cousin, attempted to choke the cousin, has destroyed property in the kinship home, tried to fight with his sister, and dragged another cousin out of bed, and fought him. Additionally, while in Kinship home, Minor Child D.S. and Minor Child D.I.S. see each other "at least biweekly," and really need and want to be together as siblings.

Minor Child D.I.S. was seen at Behavioral Health and was diagnosed with ADHD. He has been prescribed medication to help manage this diagnosis. Minor Child D.I.S. also began seeing a therapist. He continues to struggle with behaviors in the Kinship home. Continued medication and therapy are necessary to address his behaviors.

Mother has an extensive criminal record and new charges to address. Her life has been chaotic and unstable, and she refuses to be compliant with her treatment plan despite being advised fully as to the ramifications if she fails to follow-through with her treatment plan. These children have serious present and future needs and difficulties, which necessitates that they have a stable and caring parent to address in a genuine and critical fashion for their physical and well-being and development. Mother cannot fulfill that necessary parental role due to her own need for stability and treatment, of which she has failed to avail herself. These children have a need for a stable home and deserve strong, continuous parental ties, not a parent "on the run" from law enforcement authorities and not a parent who cannot even address her own treatment needs as to sobriety and mental health counselling, etc. This record demonstrates how much disruption and pure chaos these Minor Children have already endured in the care of Mother, and there is no reasonable prospect for reuniting Mother with them in their best interests. Their safety has been jeopardized when in Mother's care.

H.S. knows this three-year-old Minor Child's emotions having taken care of him over the last fourteen months. And as to whether Minor Child D.S. would be negatively impacted if his Mother's rights were terminated, H.S. stated, "my honest opinion is that [Minor Child D.S.] being 3 will be fine." *N.T.*, 86:14-15. H.S. further stated, "He's resilient and he's – he attaches to people easily so he would be okay. However, I can't testify for her older children." *N.T.*, 83:15-17.

H.S. further stated Minor Child D.S. has endured some lifetime confusion causing some instability in his life; therefore, he deserves a permanent, stable home. *N.T.*, 87:9-13. H.S. understood Mother "is facing a possibly lengthy incarceration given the current state of [her] affairs." *N.T.*, 83:15-18. H.S. responded sincerely she did not think it was fair for Minor Child D.S. to live in an uncertain environment waiting for Mother to become stable again.

H.S. stated when the Minor Children visit with each other, they get along great with each other and are upset when they are separated from each other to return to their respective Kinship homes. Minor Child D.S. and Minor Child D.I.S. are bonded to each other. H.S. stated she cannot be a permanent resource for both of these Minor Children which is what ECCYS is searching for, but this is the hardest decision that H.S. and J.S. have ever made in their lives. It is hard for her to share Minor Child D.S. moving forward with the family who continue to want to be a part of his life just as much as H.S. and J.S. want to. *N.T.*, 90:5-13.

Moreover, Mother could have asked ECCYS for assistance in finding housing for her and Minor Children. Minor children are not bonded with Mother since the Minor Children have been bounced around with different family members and homes their whole lives. *N.T.*, 57:5-13. Minor children, however, are bonded with their Kinship Caregivers, their foster parents. *N.T.*, 57:17-25; 58:1-11. Mother's rights should be terminated. There would be "an ill effect for the children not to terminate the rights" because Minor Children deserve permanency and stability. *N.T.*, 58:1-11. "They've spent the last year, even though with kinship and their bond is to the kinship, those kinships are not permanent homes for them." *N.T.*, 58:5-11. The Minor Children do not get to be together every day. Caseworker Urban



“believe[s] it would be in their best interest for them to be somewhere that was going to be a permanent home and for them to be placed together.” *N.T.*, 58:8-11. The Minor Children do not get to be together every day as siblings and the best scenario for Minor Children is to be together with one adoptive resource, which can be accomplished if Minor Children were freed for Adoption. *N.T.*, 58:2-11.

Therefore, under 23 Pa.C.S. § 2511(a)(2), ECCYS has proven by clear and convincing evidence that both Mother’s incapacity and neglect have caused each Minor Child to be without essential parental care. Mother has not remedied the causes of this incapacity and neglect for each of these Minor Children. Mother cannot and has not remedied the causes of her incapacity and neglect as to each of these Minor Children. Mother has demonstrated a continued inability to conduct her life in a fashion that would provide a safe environment for either or both of these Minor Children, whether that child was living with that parent or not. Her behavior is irremediable as supported by clear and competent evidence above, thereby substantiating this IVT Court’s granting ECCYS’s Petitions to terminate Mother’s parental rights in the instant case.

Section 2511(a)(5) requires that: “(1) the child has been removed from parental care for at least six months; (2) the conditions which led to the child’s removal or placement continue to exist; (3) the parents cannot or will not remedy the conditions which led to removal or placement within a reasonable period time; (4) the services reasonably available to the parents are unlikely to remedy the conditions which led to removal or placement within a reasonable period of time; and (5) termination of parental rights would best serve the needs and welfare of the child.” *In the Interest of D.D-E.L.*, 1513 MDA 2020, at 7-8 (Pa. Super. Ct. April 14, 2021) (citing *In re B.C.*, 36 A.3d 601, 607 (Pa. Super. 2012)); 23 Pa.C.S.A. §2511(a)(5).

Section 2511(a)(8), “requires the following factors must be demonstrated: (1) the child has been removed from parental care for 12 months or more from the date of removal; (2) the conditions which led to the removal or placement of the child continue to exist; and (3) termination of parental rights would best serve the needs and welfare of the child.” *In re Z.P.*, A.2d at 1118 (quoting *In re Adoption of M.E.P.*, 825 A.2d at 1275-1276); 23 Pa.C.S. § 2511(a)(8). “Termination under Section 2511(a)(8) does not require the court to evaluate a parent’s current willingness or ability to remedy the conditions that initially caused placement or the availability or efficacy of Agency services.” *In re Z.P.*, 994 A.2d at 1118 (citing *In re Adoption of T.B.B.*, 835 A.2d 387, 396 (Pa. Super. 2003); *In re Adoption of M.E.P.*, 825 A.2d at 1275-1276). “Additionally, to be legally significant, the post-abandonment contact must be steady and consistent over a period of time, contribute to the psychological health of the child, and must demonstrate a serious intent on the part of the parent to recultivate a parent-child relationship and must also demonstrate a willingness and capacity to undertake the parental role. The parent wishing to reestablish his parental responsibilities bears the burden of proof on this question.” *In re Z.P.*, 994 A.2d at 1119 (quoting *In re D.J.S.*, 737 A.2d 283, 286 (Pa. Super. 1999)).

Regarding 23 Pa.C.S. § 2511(a)(5) & (a)(8), Mother has a history with ECCYS dating back to October 2019 for an older daughter who was removed from her care. ECCYS had been attempting to work with Mother since January 2020, but ECCYS had been unable to locate her. Then in March, ECCYS received a report that Mother sent Minor Children to live with relatives in Buffalo, New York. Mother was also allowing inappropriate people

to care for her Minor Children and that resulted in Minor Child D.S.’s head injury. Minor Child D.S. suffered a seizure from a traumatic subdural hemorrhage on May 29, 2020, when Mother placed him with relatives in Buffalo, New York while she was “on the run.” “It was determined the injury was intentional and greater than 28 days.”

Mother’s criminal history is extensive and has pending charges to resolve. Mother is currently detained in prison, and her prior sentences may be revoked.

Mother has been consistently been noncompliant with her treatment plan to reunify her with her Minor Children. Hearing after hearing, she has been found by the Dependency Court as noncompliant with her treatment plan despite efforts of Dependency Court to explain to her and advise her about the consequences of her careless behavior. The Dependency Court judge carefully reviewed with Mother her treatment plan, and Mother confirmed affirmatively on the record she understood each and every term and condition of her treatment plan on the record. He cautioned her about her need to comply with her treatment plan so she could reunify with her minor Children.

A full colloquy, therefore, establishing Mother knew what she had to do to reunify with her Minor Children is on the record, and yet Mother incredulously told this IVT Court that she did not know about the treatment plan and did not receive it. She confirmed with the Dependency Court that she was receiving her mail with the court information and documents and yet she tells this Court another version of her story. Her inconsistencies in her testimony before the IVT Court are as chaotic as her life has been at the young age of around thirty-four. Her list of retail thefts are mounting as well as other crimes. Mother admitted to being arrested twenty-one (21) times dating back to 2005, for the last sixteen years. Then Mother minimized her lengthy record as “not harsh sentences.” *N.T.*, 120:4-21. Mother admitted to at least 11 or 12 theft related offenses by stating rhetorically, “Okay. You cannot judge a book by its cover, can you?” *N.T.*, 120:14-18. However, in Mother’s situation, her life is very revealing on the cover and continues throughout her “book” as a chaotic lifestyle. She has failed to vary the theme of her life’s book yet even for the sake of reuniting with her children. To introduce herself at her initial Permanency hearing for these Minor Children in September of 2020, Mother testified: “I am 34. I have been going through a lot of things. I am clean and I’m currently on the run. I’m unable to do the tasks that they want me to do to go forward with getting my kids. I apologize about that.” Nothing has changed since that time. The Dependency Court judge found Mother was noncompliant with her treatment plan at that hearing, and at every Dependency hearing thereafter. She was found noncompliant with her treatment plan over and over. She also has failed to alleviate the situation that brought her Minor Children into Dependency court. Her story to-date is never-ending as to her series of noncompliance, and her recent claims in IVT Court stating otherwise lack corroboration. Her actions, therefore, demonstrate how she lacks the commitment to be an appropriate parent for these Minor Children. They need a diligent parent to provide them with permanency. They deserve to have a capable parent who can assist them in addressing their myriad of issues rather than one creating more issues for them to endure as Mother has done.

Under 23 Pa.C.S. §§ 2511(a)(5) & (a)(8), ECCYS has proven by clear and convincing evidence the conditions leading to each Minor Child’s removal still exist. Mother cannot and did not remedy these conditions within a reasonable period of time. Mother has refused to utilize the services available to her to remedy the conditions leading to each Minor Child’s removal

within a reasonable period of time and Mother just cannot do so. Therefore, termination of Mother's parental rights will best serve the needs and welfare of each Minor Child.

Since this IVT Court determined above that ECCYS has proven by clear convincing evidence that Mother's conduct necessitates involuntary termination of Mother's parental rights under Section 2511 (a)(1), (a)(2), (a)(5), and (a)(8), this IVT Court must now proceed to conduct the second part of the statutory bifurcated analysis as to the needs and welfare of each Minor Child under the standard of best interests as to 23 Pa.C.S. § 2511(b).

Although the statutory provision in Section 2511(b) does not contain the term "bond," our appellate case law requires the Orphans' Court judge evaluate the emotional bond, if any, between the parent and child, as a factor in the determination of "the child's developmental, physical and emotional need." *In the Matter of K.K.R.-S.*, 958 A.2d 529, 533 (Pa. Super. 2008)). "In cases where there is no evidence of any bond between the parent and child, it is reasonable to infer that no bond exists. The extent of any bond analysis, therefore, necessarily depends on the circumstances of the particular case." *In the Interest of: D.D.-E.L.*, 1513 MDA 2020, at 14 (quoting *In re K.Z.S.*, 946 A.2d 753, 762-63 (Pa. Super. 2008)). "Additionally ... the trial court should consider the importance of continuity of relationships and whether any existing parent-child bond can be severed without detrimental effects on the child." *Id.* "When conducting a bonding analysis, the court is not required to use expert testimony." *In re Z.P.*, 994 A.2d at 1121 (citing *In re K.K.R.-S.*, 958 A.2d at 533). "Social workers and caseworkers can offer evaluations as well." *In re Z.P.*, 994 A.2d at 1121 (citing *In re A.R.M.F.*, 837 A.2d 1231 (Pa. Super. 2003)). "In addition to a bond examination, the trial court can equally emphasize the safety needs of the child, and should also consider the intangibles, such as love, comfort, security, and stability the child might have with the foster parents." *In re Adoption of C.D.R.*, 111 A.3d 1212, 1219 (Pa. Super. 2015).

This IVT properly made specific Conclusions of Law, pursuant to 23 Pa.C.S. § 2511(b), regarding the effect of the termination of parental rights on each Minor Child as per the above Findings of Fact.

Caseworker Urban credibly stated both Minor Children should remain in their respective Kinship homes. Indeed, all of their needs are being met in these Kinship homes. Caseworker Urban indicated it was best at this time for these two Minor Children not to be disrupted. There has been no visitation for approximately a year now. Petitions to Terminate both Mother's and Father's parental rights were filed on June 11, 2021. A year of placement for these Minor Children has occurred, and all of the problems that initially led to placement of both of these Minor Children in the care of ECCYS still exist.

While Mother's whereabouts were unknown, Mother is now incarcerated at this time. Mother agrees she is facing new charges and a revocation on five (5) other criminal docket numbers. Mother testified she does not really know when she will be released from incarceration. She testified she wanted the IVT Court to give her more time to achieve reunification now that she claimed to have a permanent residence. Mother testified to a complex amount of criminal charges, old and new, and possible revocations. Mother claimed incarceration did not stand in her way for taking care of her Minor Children since her family will perform her duties of raising her Minor children for her. *N.T.*, 109:3-14. Mother admitted it was okay for her Minor Children to be cared for by relatives so her Minor Children can wait for her to become stable again. She claimed she knows her Minor Children will be in

good hands with her family instead of being with someone else. She claimed her Minor Children's best interests were to be in the care of her family "instead of them was going through what [she] was going through." *N.T.*, 114:11-17. Her Minor Children should not have to wait until their parent gets her act together. Mother should have complied with the court-ordered treatment plan to be with them; however, Mother did not comply.

Mother says she wanted to be reunified with her children but when confronted with how her actions impacted her Minor Children, she did not want to discuss the impact of her actions on the Minor Children. Mother instead felt she should be commended for allowing her Minor Children to be taken care of by other family members. To the contrary, Mother cannot expect her parental rights will be preserved by waiting for a more suitable or convenient time for her to perform her parental responsibilities. Others, such as her family members, instead have stepped up to the plate to provide for the Minor Children's physical and emotional needs. Mother cannot expect her family members to be placeholders to fill her place temporarily as a Mother in order to keep her parental role open for her to step-in when she finally gets her life together. Moreover, the record demonstrates Mother has failed to utilize all available resources that the Courts and ECCYS have offered her that would have preserved her parental relationship and reunified her with the Minor Children.

When Mother was living on the streets, Mother's brother, J.S., indicated he "struggles" over the way, his sister, the Mother is "living that way" and how the family has to care for her Minor Children, not the Mother. Mother has caused stress on her own family members who have been taking care of her Minor Children. Although recently Mother had contacted the Minor Children by telephone and Facebook Messenger, and they were willing to speak to her, such contact is not sufficient for a parent in a true parenting role. Of course, these Minor Children were happy to hear from her because that is the best they can expect from her, mere minimum contact by telephone. Mother could have had in-person visits if she just would have followed her treatment plan to reunify with them.

Caseworker Urban stated if Mother's parental rights are terminated, termination will not have an impact on these Minor Children in that Mother did not work a treatment plan; Mother did not stay in contact with ECCYS; and Mother did not alleviate any of the reasons these Minor children were placed in care of ECCYS. Caseworker Urban did not have the opportunity to see whether there was any bond, healthy or unhealthy, between Minor Children and Mother, due to Mother's lack of compliance with the treatment plan for visitations and she was "on the run."

In fact, Caseworker Urban has never seen any interaction between Minor Children and Mother. Minor Child D.S. has not asked about the whereabouts of Mother so it will not be a problem for either Minor Child if the Court terminates parental rights. If the rights of Mother are terminated, both Minor Children will have more resources to give them permanency. Same reason for Minor Child D.I.S. as Minor Child D.S. as to why Mother's rights could be terminated. Minor Child D.I.S. has not asked about his parents either. No gifts or letters were sent by Mother to Minor Children at the Kinship homes. Mother has not done anything to maintain contact with her Minor Children.

At the time ECCYS became involved, Mother and Father were not living together as a family. Minor children lived with Father, and he dropped them off to live with Mother. Minor Children had been with Father for about two (2) months. Minor Child D.I.S. was truant from school when Father had custody.

Mother has not provided monetary support for Minor Children. Mother has not inquired about how Minor Children are doing, especially D.S. because of his injury. Mother is on probation and is incarcerated.

Since the needs and welfare of each Minor Child are paramount, terminating Mother's parental rights will provide each Minor Child with the necessary permanence each Minor Child indeed deserves. Each Minor Child will obtain fulfillment of his potential in a permanent, healthy, and safe environment with an adoptive resource. Minor Children are placed in Kinship Homes, but these Kinship Homes are not permanent resources. Caseworker Urban believes if these Minor Children were free for adoption, "it would be easier to find a family for them." *N.T.*, 49:7-8.

Moreover, this IVT Court accepted the position of Attorney Christine Konzal as Legal Counsel for each Minor Child. She stated each Minor Child in this case deserves permanency since they have been in placement and care for over fourteen (14) months. And the older child, D.I.S. "more than anything ... wants to be with his brother." Termination of the parental rights of Mother will provide these Minor Children the opportunity to be in a "reunified" setting in order to provide ECCYS "more leeway and more hope to get these children in an adoptive resource." Mother was duly informed by the Dependency Court personally as to what she needed to do to have her Minor Children returned to her. By terminating Mother's rights, Attorney Konzal stated these Minor Children must move forward to a permanency plan where both Minor Children can share one house, one home, in their best interests.

At the time of the Initial Permanency Hearing, Attorney Konzal as GAL remarked about the impressive progress Minor Child D.S., the younger sibling, has had in the foster home and how well he was doing there. Minor Child D.S. "made some significant strides" since being placed there on June 11, especially with potty training and talking. *N.T., Dependency, 10: 16-22*. The GAL further stated, "Which it's my understanding when he first got there he was hardly saying anything, even though he's going to be 3 years old in another month." *N.T., Dependency, 10:22-25*. The GAL, however, indicated her concern about Minor Child D.I.S.'s anger and schooling issues as well as the GAL "believe[d] the mom calls him daily, but she has yet to do any part of her treatment plan." *N.T., Dependency, 11:4-7*. Mother has failed to complete anything in the treatment plan yet Mother maintained contact with her children daily, "possibly giving them false hope of, you know, returning or something, but she's not doing anything to be compliant." *N.T., Dependency, 11:7-12*. Mother's interjection of directly calling Minor Child D.S. daily was affecting Minor Child D.I.S. whose anger issues were increasing.

This IVT Court properly concluded ECCYS established by clear and convincing evidence that termination of Mother's parental rights will best serve each these Minor Children's needs and welfare as well as serving each Minor Child's best interests. And as detailed above, ECCYS has established, by clear and convincing evidence, four separate grounds for the termination of Mother's parental rights as to each Minor Child (even though only one is sufficient), and also termination of Mother's parental rights are in the best interests, needs, and welfare of each Minor Child.

This IVT Court, therefore, requests the Honorable Judges of the Pennsylvania Superior Court to affirm the Decrees for each of the Minor Children, specifically Minor Child D.I.S. and Minor Child D.S., involuntarily terminating Mother's parental rights.

**BY THE COURT**

/s/ **Hon. Stephanie Domitrovich, Judge**

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

**IN THE MATTER OF THE ADOPTION OF: D.I.S., A MINOR  
APPEAL OF: A.N.S., MOTHER**

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1227 WDA 2021

Appeal from the Decree Entered September 17, 2021

In the Court of Common Pleas of Erie County

Orphans' Court at No(s): 2021-00068

**IN THE MATTER OF THE ADOPTION OF: D.S., A MINOR  
APPEAL OF: A.N.S., MOTHER**

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1228 WDA 2021

Appeal from the Decree Entered September 17, 2021

In the Court of Common Pleas of Erie County

Orphans' Court at No(s): 68A in Adoption 2021

BEFORE: PANELLA, P.J., OLSON, J., and SULLIVAN, J.

MEMORANDUM BY PANELLA, P.J.:

**FILED: APRIL 29, 2022**

A.N.S. ("Mother") appeals from the decrees terminating her parental rights to her children, D.I.S. (approximately seven-years-old) and D.S. (over four-years-old). On appeal, Mother contends the trial court erred by failing to acknowledge that she was making good faith efforts to comply with her court-ordered treatment plan. She also claims the trial court erred in finding that termination of her parental rights served the best interests of the children. After careful review, we affirm.

In early 2020, Erie County Office of Children and Youth Services ("the Agency") was concerned about D.I.S. and D.S. because another of Mother's children had been placed in kinship care due to issues with Mother. The Agency lost contact with Mother, D.I.S., and D.S. for several months and initiated a search to locate them.

In June 2020, the Agency successfully located the children in Buffalo, New York. The children were living with relatives of their father. The Agency had both children returned to Erie County due to concerns of physical abuse and neglect at the hands of father's relatives. The Agency still could not locate Mother.

At the June 25, 2020 dependency hearing, Mother stipulated that the children were dependent due to Mother's leaving the children in the care of inappropriate individuals and her pending criminal charges. The reunification plan directed Mother to submit to urinalysis, participate in a drug and alcohol assessment as well as a mental health assessment, procure stable employment and housing, and comply with the Agency's guidelines.

On June 11, 2021, the Agency filed petitions to terminate Mother's rights to the children, alleging that Mother had failed to comply with the reunification plan. After a hearing on the petitions, the trial court entered decrees terminating Mother's parental rights, and this timely appeal followed.<sup>1</sup>

On appeal, Mother claims the trial court erred in terminating her parental rights. We apply a deferential standard of review in appeals from orders terminating parental rights:

The standard of review in termination of parental rights cases requires appellate courts to accept the findings of fact and credibility determinations of the trial court if they are supported by the record. If the factual findings are supported, appellate courts review to determine if the trial court made an error of law or abused its discretion. A decision may be reversed for an abuse of discretion only upon demonstration of manifest unreasonableness, partiality, prejudice, bias, or ill-will. The trial court's decision, however, should not be reversed merely because the record would support a different result. We have previously emphasized our deference to trial courts that often have first-hand observations of the parties spanning multiple hearings.

*In re T.S.M.*, 71 A.3d 251, 267 (Pa. 2013) (citations and quotation marks omitted).

Section 2511 of the Adoption Act governs the involuntary termination of parental rights. *See* 23 Pa.C.S.A. § 2511. It requires a bifurcated analysis:

Initially, the focus is on the conduct of the parent. The party seeking termination must prove by clear and convincing evidence that the parent's conduct satisfies the statutory grounds for termination delineated in Section 2511(a). Only if the court determines that the parent's conduct warrants termination of his or her parental rights does the court engage in the second part of the analysis pursuant to Section 2511(b): determination of the needs and welfare of the child under the standard of best interests of the child. One major aspect of the needs and welfare analysis concerns the nature and status of the emotional bond between parent and child, with close attention paid to the effect on the child of permanently severing any such bond.

*In re L.M.*, 923 A.2d 505, 511 (Pa. Super. 2007) (citations omitted).

The Agency bore the burden of proving, by clear and convincing evidence, that the asserted grounds for seeking the termination of parental rights are valid. *See In re R.N.J.*, 985 A.2d 273, 276 (Pa. Super. 2009). Moreover, "[t]he standard of clear and convincing evidence is defined as testimony that is so clear, direct, weighty and convincing as to enable the trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue." *Id.* (citation and internal quotation marks omitted).

Here, the court terminated Mother's parental rights to both children pursuant to Section 2511(a)(1), (a)(2), (a)(5), (a)(8) and (b). We need only agree with the court as to any one subsection of Section 2511(a), as well as Section 2511(b), to affirm. *See In re B.L.W.*,

<sup>1</sup> The trial court's decrees simultaneously terminated the parental rights of the children's biological father. The terminations of the father's parental rights are not subject to this appeal. Further, the trial court addressed both children in a single opinion on appeal, as the factors leading to termination of Mother's rights were not significantly different between the children.

843 A.2d 380, 384 (Pa. Super. 2004) (*en banc*).<sup>2</sup>

We therefore address Mother's claim under subsection (a)(2). Under section 2511(a)(2), the Agency was required to establish, by clear and convincing evidence, that: (1) the parent's conduct demonstrates repeated and continued incapacity, abuse, neglect or refusal to assume parental responsibility for the child; (2) such incapacity, abuse, neglect or refusal caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being; and (3) the parent will not remedy the causes of the incapacity, abuse, neglect or refusal. *See In re Adoption of M.E.P.*, 825 A.2d 1266, 1272 (Pa. Super. 2003). The grounds for termination of parental rights under section 2511(a)(2) are not limited to affirmative misconduct; to the contrary, those grounds may include acts of refusal as well as incapacity to perform parental duties. *See In re A.L.D.*, 797 A.2d 326, 337 (Pa. Super. 2002).

Here, the evidence was straightforward. The children were found to be dependent because Mother had voluntarily abandoned the children to the care of paternal relatives in Buffalo. *See* Dependency Petition of D.S., filed 6/17/20, at 4; N.T., IVT Hearing, 8/17/21, at 21. As part of the reunification plan, Mother was directed to submit to drug, alcohol, and mental health assessments, obtain stable housing and employment, and otherwise comply with the Agency's recommendations. *See* N.T., IVT Hearing, 8/17/21, at 22.

As of the filing of the petitions to terminate Mother's rights, she had failed to have any contact with the Agency, and had not complied with any of the terms of the reunification plan. *See id.*, at 27-9, 31. By the time of the hearing, Mother had not had any visitation with the children for over a year and had not remedied any of the circumstances that led to the children being found dependent. *See id.*, at 36. Perhaps most importantly, Mother was incarcerated and was facing revocation of probationary sentences due to additional pending criminal charges. *See id.*, at 36-7.

Mother admitted she was incarcerated at the time of the hearing. *See id.*, at 94. She acknowledged that she was homeless before she was incarcerated. *See id.* She also acknowledged she was unemployed before she was incarcerated. *See id.*, at 99. She testified that her failure to follow the Agency's treatment plans "was not a good decision on my part." *Id.*, at 101.

This evidence was sufficient to establish that Mother had displayed a continued course of neglect that caused the children to be without essential parental care. Mother's continued criminal conduct and failure to complete any of the requirements of the reunification plan support the trial court's conclusion that Mother cannot remedy this neglect going forward.

Mother argues the trial court failed to acknowledge her testimony that:

she was attempting to alleviate concerns that brought her children into care. [Mother] acknowledged that she had not followed the court-ordered services; however, she was working with Safe Harbor and her [blended case manager] for mental health and drugs and

<sup>2</sup> Mother's brief on appeal only raises explicit arguments against the trial court's conclusions pursuant to subsection (a)(1), (a)(2), (a)(5), and (b). Other than a brief mention in her opening sentence, Mother does not reference the trial court's conclusion under (a)(8). We could therefore affirm the termination on the basis of (a)(8), as Mother has waived any challenge to that conclusion. *See Branch Banking and Trust v. Gesiorski*, 904 A.2d 939, 942-943 (Pa. Super. 2006) ("When issues are not properly raised and developed in briefs, when the briefs are wholly inadequate to present specific issues for review[,] a Court will not consider the merits thereof"). In an abundance of caution, however, we will address Mother's challenge pursuant to subsection (a)(2).



alcohol. She ran into several setbacks due to the loss of her home due to fire and the onset of the pandemic, but she remained committed to wanting to reunify with her children.

Appellant's Brief, at 10. However, a review of the trial court's opinion on appeal reveals the court was aware of Mother's testimony. *See* Trial Court Opinion, 11/16/21, at 42-53. The court simply did not find Mother credible due to her history of crimes of dishonesty and conflicts between Mother's IVT testimony and the transcripts of previous hearings. *See id.*, at 54. Mother does not provide any reason for this Court to conclude the trial court's credibility determinations were an abuse of discretion. We are therefore bound by those credibility determinations and Mother's first issue on appeal merits no relief.

We therefore turn to Mother's argument that the Agency failed to establish that termination was justified under Section 2511(b). Pursuant to Section 2511(b), the court was required to examine whether termination of parental rights would best serve the developmental, physical, and emotional needs and welfare of the children. *See In re C.M.S.*, 884 A.2d 1284, 1286-1287 (Pa. Super. 2005). "Intangibles such as love, comfort, security, and stability are involved in the inquiry into the needs and welfare of the child." *Id.*, at 1287 (citation omitted).

Our Supreme Court has stated the following:

[I]f the grounds for termination under subsection (a) are met, a court shall give primary consideration to the developmental, physical and emotional needs and welfare of the child. . . . In *In re E.M.*, 620 A.2d [481,] 485 [(Pa. 1993)], this Court held that the determination of the child's needs and welfare requires consideration of the emotional bonds between the parent and child. The utmost attention should be paid to discerning the effect on the child of permanently severing the parental bond.

*In re T.S.M.*, 71 A.3d 251, 267 (Pa. 2013) (some citations and quotation marks omitted).

In a termination of parental rights case, the trial court is required to consider "whatever bonds may exist between the children and [the natural parent], as well as the emotional effect that termination will have upon the children." *In re Adoption of A.C.H.*, 803 A.2d 224, 229 (Pa. Super. 2002) (citation omitted). In conducting a bond analysis, the court is not required to use expert testimony. *See In re Z.P.*, 994 A.2d at 1121.

"The extent of any bond analysis, therefore, necessarily depends on the circumstances of the particular case." *In re K.Z.S.*, 946 A.2d 753, 763 (Pa. Super. 2008). The panel in *In re K.Z.S.* emphasized that, in addition to a bond examination, the court can equally emphasize the safety needs of the child. *See id.*, at 760.

On appeal, Mother highlights testimony from her sister-in-law, H.S., who is D.S.'s foster parent.<sup>3</sup> Mother argues that H.S. acknowledged Mother had a bond with D.S. *See* Appellant's Brief, at 11. However, H.S. also testified that, while D.S. is confused about his relationship with Mother, he would not suffer any ill effects from the termination of Mother's parental rights. *See* N.T., IVT Hearing, 8/17/21, at 86.

<sup>3</sup> Mother's argument challenging the trial court's conclusion pursuant to Section 2511(b) does not reference D.I.S. at all. Therefore, Mother has technically abandoned any claim that the trial court erred in finding termination served D.I.S.'s best interests. Despite this failure, we will review whether the Agency met its burden with respect to D.I.S. under Section 2511(b), as the analysis is identical to the analysis for D.S.

Further, the Agency caseworker involved in this case testified that neither child would suffer from termination of Mother's parental rights. *See id.*, at 38-39. The caseworker expanded on this opinion by noting that it would be in the best interest of each child to terminate Mother's rights. *See id.* She reached this conclusion because the children are currently placed with two separate families and are therefore separated from each other. *See id.*, at 55-6. Neither child is currently placed with a family that is considered a permanent resource. *See id.*, at 48. Termination of Mother's parental rights would make it easier for the Agency to find an adoptive family for both children. *See id.*, at 49.

Under these circumstances, Mother has not established that the trial court erred or abused its discretion. The court's finding that termination of Mother's parental rights was in the best interest of both children is well supported by the record. Mother's final argument on appeal therefore merits no relief.

As we conclude the trial court's findings and conclusions that termination were justified pursuant to Section 2511(a)(2) and (b), we affirm both decrees.

Decrees affirmed.

Judgment Entered.

/s/ Joseph D. Seletyn, Esq.

Prothonotary

Date: 4/20/2022

## The Intoxication Defense and Violation of Law Defenses under the PA & Other States' Workers' Compensation Laws

**Wednesday, May 11, 2022**

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 Paraprofessional Staff, \$60 Non-members

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



**1 hour Substantive CLE credit**

### Seminar:

This session will identify the provisions of the Pennsylvania Act establishing the related affirmative defenses of intoxication and violation of law. Attendees will learn how courts have interpreted these laws. Attendees will learn how other states approach these defenses in their workers' compensation laws.

### Speaker:



**David B. Torrey, WCJ**  
Pennsylvania Department of Labor & Industry  
Pittsburgh, PA

Judge Torrey has been a Workers' Compensation Judge with the Pennsylvania Department of Labor & Industry, Pittsburgh Office, since 1993. He is Adjunct Professor of Law at the University of Pittsburgh School of Law (1996-present). He is also the editor of the Pennsylvania Bar Association Workers' Compensation Quarterly Newsletter (1988-present). Judge Torrey received his A.B. in 1982 from West Virginia University and his J.D. in 1985 from Duquesne University School of Law. While in law school, he was Editor-in-Chief of the *Duquesne Law Review* (Volume 23, 1984-85). In 2010, he was elected to membership in the National Academy of Social Insurance. He is a past-president of the National Association of Workers' Compensation Judiciary and is a Fellow and past Vice-President of the American Bar Association (ABA)-affiliate College of Workers' Compensation Lawyers.

In 2021, he published the Fourth Edition of his treatise, Torrey & Greenberg, *Pennsylvania Workers' Compensation: Law & Practice* (4 Volumes: Thomson-Reuters 4th ed. 2021). Among his recent articles are *The Report of the National Commission on State Workmen's Compensation Laws: A Briefing on the Document Which, 50 Years Ago, Remade the Program*, The Brief (ABA) (forthcoming, Spring 2022); and *Master or Chancellor? The Workers' Compensation Judge and Adjudicatory Power*, 32 National Association of Administrative Law Judiciary Journal 21 (2012). Judge Torrey also served in the U.S. Army (1976-1979) and in the West Virginia Army National Guard (1979-1982).

### TO REGISTER, VISIT:

<https://www.eriebar.com/events/public-registration/1759>

**ACTION TO QUIET TITLE**  
IN THE COURT OF COMMON  
PLEAS OF ERIE COUNTY,  
PENNSYLVANIA  
NO. 10803-2022

DAVID J. MORASKI and  
MARIA D. ORELLANA FUENTES,  
husband and wife, Plaintiffs  
v.

LOMAS & NETTLETON  
COMPANY, its successors and/or  
assigns, or any and all persons or  
entities claiming title to, through,  
or under it, Defendant

### LEGAL NOTICE

#### ACTION TO QUIET TITLE

To: LOMAS & NETTLETON  
COMPANY, its successors and/or  
assigns, Defendant

You have been sued in Court. If you wish to defend against the claims set forth in the Complaint you must take action within twenty (20) days after this publication by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections in the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for the relief requested by the Plaintiff(s). You may lose money, property or other rights important to you.

You should take this notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the following to find out where you can get legal help.

Lawyer Referral &  
Information Service  
P.O. Box 1792  
Erie, PA 16507  
(814) 459-4411  
Monday-Friday,  
8:30 a.m. to 3:00 p.m.

The Complaint, filed in the Court of Common Pleas of Erie County, Pennsylvania at No. 10803-2022, alleges that the Plaintiffs, David J. Moraski and Maria D. Orellana Fuentes, husband and wife, are the owners of the following parcel of property: 1110 McConnell Avenue, Erie, PA 16505; Erie County Tax Identification # 33019095001700.

The Court has ordered that notice

to this action may be given by publication so that title to the property may be adjudicated. The Complaint requests the Court to decree that title to the property is free and clear of any claim or interest of any of the said Defendant, its successors and/or assigns, and that said Defendant be barred from asserting any right, title and interest in and to the property inconsistent with the interest and claim of the Plaintiffs unless an action of ejectment is brought within thirty (30) days of the Court's Order. BLAKELY & BLAKELY, LLC  
By Richard A. Blakely

May 6

### CERTIFICATE OF AUTHORITY

Basic Commerce and Industries, Inc., a corporation organized under the laws of the state of New Jersey, has applied for registration in Pennsylvania under the provisions of Chapter 4 of the Associations Code. The address of its principal office under the laws of the jurisdiction of formation is 303 Harper Dr., Moorestown, NJ 08057 and the address of its proposed registered office in this Commonwealth is c/o Registered Agents, Inc., 502 W. 7th St., Ste. 100, Erie, PA 16502.

May 6

### CHANGE OF NAME NOTICE

In the Court of Common Pleas of Erie County, Pennsylvania 10956-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of Logan Charlotte Blount to Charlotte Furiesz Blount. The Court has fixed the 9th day of June, 2022 at 11:15 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 6

**CHANGE OF NAME NOTICE**  
In the Court of Common Pleas of Erie County, Pennsylvania 10543-22 Notice is hereby given that a Petition was filed in the above named court requesting an Order to change the name of James Russell Walburn to Khoi Anh Pham.

The Court has fixed the 6th day of May, 2022 at 9:00 a.m. in Court Room G, Room 222, of the Erie County Court House, 140 West 6th Street, Erie, Pennsylvania 16501 as the time and place for the Hearing on said Petition, when and where all interested parties may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

May 6

### FICTITIOUS NAME NOTICE

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

### FICTITIOUS NAME NOTICE

1. Fictitious Name: USA Performance Welding
2. Address of the principal place of business, including street and number: 14271 Flatts Road, Waterford, PA 16441
3. The real names and addresses, including street and number, of the persons who are parties to the registration: Kevin Peters Heavy Equipment Repair LLC, of 14271 Flatts Road, Waterford, PA 16441
4. An application for registration of fictitious name under the Fictitious Names Act was filed on or about April 25, 2022 with the Pennsylvania Department of State.

May 6

**LEGAL NOTICE**

**ATTENTION: UNKNOWN BIOLOGICAL FATHER INVOLUNTARY TERMINATION OF PARENTAL RIGHTS IN THE MATTER OF THE ADOPTION OF MINOR MALE CHILD J.D.F.** DOB: 11/03/2021  
BORN TO: ALESHA MARIE EBERLE  
14A IN ADOPTION, 2022  
If you could be the parent of the above-mentioned child, at the instance of Erie County Office of Children and Youth you, laying aside all business and excuses whatsoever, are hereby cited to be and appear before the Orphan's Court of Erie County, Pennsylvania, at the Erie County Court House, Judge Erin Connelly Marucci, Courtroom G #222, City of Erie on June 22, 2022 at 1:30 p.m. and there show cause, if any you have, why your parental rights to the above child should not be terminated, in accordance with a Petition and Order of Court filed by the Erie County Office of Children and Youth. A copy of these documents can be obtained by contacting the Erie County Office of Children and Youth

at (814) 451-7740.  
Your presence is required at the Hearing. If you do not appear at this Hearing, the Court may decide that you are not interested in retaining your rights to your children and your failure to appear may affect the Court's decision on whether to end your rights to your child. You are warned that even if you fail to appear at the scheduled Hearing, the Hearing will go on without you and your rights to your child may be ended by the Court without your being present.  
You have a right to be represented at the Hearing by a lawyer. You should take this paper to your lawyer at once. If you do not have a lawyer, or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.  
Family/Orphan's Court Administrator Room 204 - 205  
Erie County Court House  
Erie, Pennsylvania 16501  
(814) 451-6251  
NOTICE REQUIRED BY ACT 101 OF 2010: 23 Pa. C.S. §§2731-2742. This is to inform you of an important option that may be available to you

under Pennsylvania law. Act 101 of 2010 allows for an enforceable voluntary agreement for continuing contact or communication following an adoption between an adoptive parent, a child, a birth parent and/or a birth relative of the child, if all parties agree and the voluntary agreement is approved by the court. The agreement must be signed and approved by the court to be legally binding. If you are interested in learning more about this option for a voluntary agreement, contact the Office of Children and Youth at (814) 451-6688, or contact your adoption attorney, if you have one.  
May 6

**LEGAL NOTICE**

IN THE COURT OF COMMON PLEAS OF ERIE COUNTY, PA/ Case No. 12766-2021. A hearing for Involuntary Transfer of Vehicle Ownership of a: 1964 Yellowstone Camper, VIN# 10711. A hearing will be held on May 31, 2022 at 3:45 PM in Courtroom G, Room 222 of the Erie County Courthouse, 140 West 6th Street, Erie, PA 16501.  
May 6, 13, 20



Event benefits the ECBA's Attorneys & Kids Together Program, supporting the educational needs of Erie County students in homeless situations.

The AKT 5K Run/Walk is being held two ways this year — in-person starting at the Erie County Court of Common Pleas and virtually (which can be completed from any location you choose).

**IN-PERSON:** Saturday, May 21, starting at the Erie County Court of Common Pleas.

**VIRTUAL:** Saturday, May 21 through Sunday, May 29, start time is whatever fits your schedule and any location you choose.

**FOR MORE INFORMATION AND TO REGISTER, VISIT:**  
<https://www.eriebar.com/events/public-registration/1647>

**SHERIFF SALES**

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

**MAY 20, 2022  
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.

Chris Campanelli  
Sheriff of Erie County

Apr. 29 and May 6, 13

**SALE NO. 2**

**Ex. #10155 of 2020**  
**U.S. Bank Trust National Association, as Trustee of the LB-Cabana Series IV Trust, Plaintiff**  
**v.**  
**Nancy Chisholm; Robert Chisholm; et al., Defendants**  
**DESCRIPTION**

By virtue of the Writ of Execution filed to No. 2020-10155, U.S. Bank Trust National Association, as Trustee of the LB-Cabana Series IV Trust vs. Nancy Chisholm; Robert Chisholm; et al.

U.S. Bank Trust National Association, as Trustee of the LB-Cabana Series IV Trust, owners of the property situated in Edinboro,

Erie County, Pennsylvania being 127 Harrison Drive, Edinboro, PA 16412  
2,796 sq. ft.  
Assessment Map Number: 11007032012516  
Assessed Value Figure: \$229,900.00  
Improvement thereon: Residential Dwelling  
Plaintiff's attorney:  
Adam Friedman, Esq.  
Friedman Vartolo LLP  
1325 Franklin Avenue, Suite 160  
Garden City, NY 11530  
T: (212) 471-5100  
F: (212) 471-5150

Apr. 29 and May 6, 13

**SALE NO. 3**

**Ex. #10714 of 2013**  
**BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP F/K/A COUNTRYWIDE HOME LOANS SERVICING, LP, Plaintiff**  
**v.**

**JASON R. LLOYD, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 10714-13, BANK OF AMERICA, N.A., AS SUCCESSOR BY MERGER TO BAC HOME LOANS SERVICING, LP F/K/A COUNTRYWIDE HOME LOANS SERVICING, LP vs. JASON R. LLOYD, owner of property situated in the Borough of Waterford, Erie County, Pennsylvania being 509 Cherry Street, Waterford, PA 16441

1,512 square feet, 0.1486 acres  
Assessment Map Number: 46006016001500  
Assessed Value Figure: \$97,440.00  
Improvement thereon: Residential Jill M. Fein, Esquire  
Attorney I.D. 318491  
Hill Wallack LLP  
777 Township Line Rd., Suite 250  
Yardley, PA 19067  
(215) 579-7700

Apr. 29 and May 6, 13

**SALE NO. 4**

**Ex. #11333 of 2021**  
**Citibank, N.A., not in its individual capacity but solely as**

**Owner Trustee for New Residential Mortgage Loan Trust 2018-3, c/o NewRez LLC, f/k/a New Penn Financial, LLC, d/b/a Shellpoint Mortgage Servicing, 55 Beattie Place, Suite 100, Greenville, South Carolina 29601, Plaintiff**  
**v.**

**LEANNE MCCLELLAN, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2021-11333, CITIBANK, N.A., NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR NEW RESIDENTIAL MORTGAGE LOAN TRUST 2018-3 vs. LEANNE MCCLELLAN, owner of property situated in Waterford Township, Erie County, Pennsylvania being 10525 Route 97 N, Waterford, PA 16441

1,401 square feet, 1.0000 acres  
Assessment Map Number: 47-003-008.0-016.00  
Assessed Value Figure: \$110,400.00  
Improvement thereon: Residential Jill M. Fein, Esquire  
Attorney I.D. 318491  
Hill Wallack LLP  
777 Township Line Rd., Suite 250  
Yardley, PA 19067  
(215) 579-7700

Apr. 29 and May 6, 13

**SALE NO. 5**

**Ex. #10803 of 2020**  
**PNC BANK, NATIONAL ASSOCIATION, Plaintiff**  
**v.**  
**BETHANY L. GORNDT AKA BETHANY KLECKNER, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2020-10803, PNC BANK, NATIONAL ASSOCIATION vs. BETHANY L. GORNDT AKA BETHANY KLECKNER, owner(s) of the property situated in Erie County, Pennsylvania being 10249 ELGIN ROAD, UNION CITY, PA 16438

Assessment Map Number: 43006018001401  
Assessed Value Figure: \$88,090.00  
Improvement Thereon:



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

Apr. 29 and May 6, 13

**SALE NO. 6**

**Ex. #13597 of 2015**  
**PNC BANK, NATIONAL**  
**ASSOCIATION, Plaintiff**  
**v.**

**DARLENE M. KANIS a/k/a**  
**DARLENE M. OCHALEK,**  
**Defendant**

**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2015-13597, PNC BANK, NATIONAL ASSOCIATION vs. DARLENE M. KANIS a/k/a DARLENE M. OCHALEK, owner(s) of the property situated in Erie County, Pennsylvania being 4845 CONRAD STREET, ERIE, PA 16510

Assessment Map Number:  
33107480403200

Assessed Value Figure: \$128,640.00  
Improvement Thereon:

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

Apr. 29 and May 6, 13

**SALE NO. 7**

**Ex. #10009 of 2022**  
**PENNSYLVANIA HOUSING**  
**FINANCE AGENCY, Plaintiff**  
**v.**

**KELIN BROWN, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution No. 2022-10009, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. KELIN BROWN, Defendant  
Real Estate: 3520 IDLEWOOD DRIVE, ERIE, PA 16510  
Municipality:  
Borough of Wesleyville  
Erie County, Pennsylvania  
Dimensions: 35 x 100  
Deed Book/Inst#: 2006-023843  
Tax I.D. (50) 2-40-9  
Assessment: \$14,200 (Land)  
\$66,100 (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

Apr. 29 and May 6, 13

**SALE NO. 8**

**Ex. #12515 of 2021**  
**PENNSYLVANIA HOUSING**  
**FINANCE AGENCY, Plaintiff**  
**v.**

**JON C. HUNT, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution No. 2021-12515, PENNSYLVANIA HOUSING FINANCE AGENCY, Plaintiff vs. JON C. HUNT, Defendant  
Real Estate: 716 BROWN AVENUE, ERIE, PA 16502  
Municipality: City of Erie  
Erie County, Pennsylvania  
Dimensions: 0.1027 acre - IRR  
Approx. 123 x 14 x 22 x 117 x 38

Deed Book/Inst#: Book 1493, page 1313  
Tax I.D. (19) 6020-122  
Assessment: \$10,900 (Land)  
\$51,150 (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

Apr. 29 and May 6, 13

**SALE NO. 9**

**Ex. #12626 of 2021**  
**The Money Source Inc., Plaintiff**  
**v.**  
**Anthony J. Boscarino, Defendant**  
**DESCRIPTION**

By virtue of a Writ of Execution filed to No. 2021-12626, The Money Source Inc. vs. Anthony J. Boscarino, owner(s) of property situated in the Township of Millcreek, Erie County, Pennsylvania being 1153 Kerry Lane, Erie, PA 16505  
0.4740  
Assessment Map Number:  
33020112000600  
Assessed Value figure: \$180,200.00  
Improvement thereon:  
Single Family Dwelling  
Kimberly J. Hong, Esquire  
Manley Deas Kochals LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
614-220-5611

Apr. 29 and May 6, 13

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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**

**BOWERSOX, WAYNE W., SR., deceased**

Late of the City of Erie, County of Erie, and State of Pennsylvania  
*Executor:* Wayne W. Bowersox, Jr.  
*Attorney:* Gregory A. Karle, Esq., 731 French Street, Erie, PA 16501

**CLINE, ALICE ANN GAFNER, deceased**

Late of North East Township, Erie County, North East, PA  
*Executor:* Charles Walker Cline, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**DIVOKY, THOMAS L., deceased**

Late of the Borough of Wattsburg, County of Erie, Pennsylvania  
*Administrator:* Leonard L. Divoky, c/o Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407  
*Attorney:* Thomas J. Ruth, Esq., 224 Maple Avenue, Corry, PA 16407

**FREELAND, HELEN L., deceased**

Late of the Township of Lawrence Park, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Larry R. Freeland, 2014 Colony Drive, Aliquippa, PA 15001-9560  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**JONES, SUZANNE M., a/k/a SUZANNE JONES, deceased**

Late of the City of Erie, Commonwealth of Pennsylvania  
*Administrator:* 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, PA 16509

**KAVENEY, JANET A., deceased**

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Susan McClymonds, c/o Quinn, Buseck, Leemhuis, Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506  
*Attorney:* Colleen R. Stumpf, Esq., Quinn, Buseck, Leemhuis, Toohy & Kroto, Inc., 2222 West Grandview Blvd., Erie, PA 16506

**LEONARDI, EDNA D., a/k/a EDNA LEONARDI, deceased**

Late of the Township of Millcreek, Commonwealth of Pennsylvania  
*Administrator:* Rinaldo Leonardi, Jr., c/o Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509  
*Attorney:* Richard A. Vendetti, Esquire, Vendetti & Vendetti, 3820 Liberty Street, Erie, Pennsylvania 16509

**LOMBARDO, ALBERT V., a/k/a ALBERT LOMBARDO, deceased**

Late of the City of Erie, County of Erie and State of Pennsylvania  
*Executrix:* Lisa M. Lombardo, c/o 17 West 10th Street, Erie, Pennsylvania 16501  
*Attorneys:* CONNER RILEY FRIEDMAN & WEICHLER, 17 West 10th Street, Erie, Pennsylvania 16501

**MALONE, MICHAEL M., a/k/a MICHAEL MALONE, deceased**

Late of the City of Corry, County of Erie and Commonwealth of Pennsylvania  
*Executrix:* Kelli M. Malone, 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

**MATSON, JEANNE M., deceased**

Late of Fairview Township, Erie County, Pennsylvania  
*Co-executors:* Suzanne K. Brown, 24353 West View Drive, Union City, PA 16438 and John P. Matson, Sr., 4449 Miller Avenue, Fairview, PA 16415  
*Attorney:* James P. Shields, Esq., Elder Law Offices of Shields and Boris, 1150 Old Pond Road, Bridgeville, PA 15017

**MULSON, JOAN T., deceased**

Late of the Township of North East, County of Erie, Commonwealth of Pennsylvania  
*Executor:* William C. Mulson, Sr., 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

**STONER, MARGARET F., a/k/a MARGARET T. STONER, a/k/a MARGARET FAYE STONER, deceased**

Late of Harborcreek Township, Erie County, Commonwealth of Pennsylvania  
*Executrix:* Linda Binney, 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

**TUTAK, PETER, a/k/a PETER BYRON TUTAK, a/k/a PETER B. TUTAK, deceased**

Late of Conneaut Township, County of Erie  
*Executrix:* Desiree Rigby, c/o Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506  
*Attorney:* Barbara J. Welton, Esquire, 2530 Village Common Drive, Suite B, Erie, PA 16506

**VOJTKO, ROBERT P., a/k/a ROBERT VOJTKO, deceased**

Late of the Borough of Girard, County of Erie, Commonwealth of Pennsylvania  
*Administrator:* Joseph J. Vojtko, 332 Main Street East, Girard, PA 16417  
*Attorney:* John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**WOZNIAK, MARTHA M., a/k/a MARTHA WOZNIAK, deceased**

Late of Lake City, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Francis M. Wozniak, c/o Eugene C. Sundberg, Jr., Esq., Suite 300, 300 State Street, Erie, PA 16507  
*Attorney:* Eugene C. Sundberg, Jr., Esq., MARSH SCHAAF, LLP, Suite 300, 300 State Street, Erie, PA 16507

**YADESKY, DONALD, a/k/a DONALD R. YADESKY, deceased**

Late of Lawrence Park Township, Erie County, Pennsylvania  
*Executor:* Michael Langer, 4345 Appaloosa Court, Erie, PA 16506  
*Attorney:* James P. Shields, Esq., Elder Law Offices of Shields and Boris, 1150 Old Pond Road, Bridgeville, PA 15017

**SECOND PUBLICATION**

**BARTON, NANCY ANN, a/k/a NANCY A. BARTON, deceased**

Late of Millcreek Township  
*Co-executors:* Thomas B. Barton, 411 Kelso Drive #35, Erie, PA 16505 and Celia Ann Portenier, 13925 Flatts Road, Waterford, PA 16441  
*Attorney:* David J. Mack, Esquire, 510 Parade Street, Erie, PA 16507

**CALHOUN, SHIRLEY, deceased**

Late of Fairview Township  
*Administratrix:* Amy S. Morrow, 3405 Bird Drive, Erie, PA 16510  
*Attorney:* David J. Mack, Esquire, 510 Parade Street, Erie, PA 16507

**HUNTER, HARRIETT J., a/k/a HARRIETT HUNTER, deceased**

Late of Harborcreek Township  
*Executrix:* Mary Patricia Powell, 1348 Davison Avenue, Harborcreek, PA 16421  
*Attorney:* David J. Mack, Esquire, 510 Parade Street, Erie, PA 16507

**JASKIEWICZ, ROBERT C., deceased**

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

**JOY, ROBERT C., deceased**

Late of the City of Corry, County of Erie  
*Executrix:* Patricia L. Joy, 12876 Route 6, Corry, Pennsylvania 16407  
*Attorney:* Kari A. Froess, Esquire, CARNEY & GOOD, 254 West Sixth Street, Erie, Pennsylvania 16507

**KENT, EUGENE H., a/k/a EUGENE KENT, deceased**

Late of the Township of Fairview, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Mitchell E. Kent, 461 East 4th Street, Erie, PA 16507  
*Attorney:* Valerie H. Kuntz, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**KOHLER, BARRY L., a/k/a BARRY LEE KOHLER, deceased**

Late of Edinboro Borough, Erie County  
*Executrix:* Lora A. McHale  
*Attorney:* Norman A. Stark, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**LACKEY, MARILYN L., a/k/a MARILYN LACKEY, deceased**

Late of the Township of Millcreek, Erie County, PA  
*Executor:* Gary R. Lackey, 4581 Kell Road, Fairview, PA 16415  
*Attorney:* M. Kathryn Karn, 4402 Peach Street, Suite 3, Erie, PA 16509

**MCDONALD, DESMOND JORDAN, a/k/a DESMOND MCDONALD, deceased**

Late of the City of Erie, Erie County, Commonwealth of Pennsylvania  
*Administrator:* Desmond John McDonald, 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

**OLESNANIK, WILLIAM, a/k/a  
WILLIAM J. OLESNANIK, a/k/a  
WILLIAM JOHN OLESNANIK,  
deceased**

Late of Girard Borough, Erie County, Pennsylvania  
*Executrix:* Meghan Kremer, a/k/a Meghan L. Kremer, c/o Jeffrey J. Cole, Esq., 2014 West 8th Street, Erie, PA 16505  
*Attorney:* Jeffrey J. Cole, Esq., 2014 West 8th Street, Erie, PA 16505

**SCHEU, FRANK,  
deceased**

Late of the City of Erie, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Connie J. Scheu, 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

**SHALLENBERGER, GARY M.,  
deceased**

Late of Franklin Township, County of Erie, and Commonwealth of Pennsylvania  
*Administratrix:* Susan Shallenberger  
*Attorney:* Patrick J. Loughren, Esquire, Loughren & Loughren, P.C., 8050 Rowan Road, Suite 601, Rowan Towers, Cranberry Township, Pennsylvania 16066

**SMITH, VERA LEONA,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Gregory P. Smith, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**SPANGLER, JOHN FRANKLIN,  
a/k/a JOHN F. SPANGLER, a/k/a  
JOHN SPANGLER,  
deceased**

Late of the Township of Waterford, County of Erie, State of Pennsylvania  
*Administratrix:* Melissa H. Shirey, c/o 337 West 10th Street, Erie, PA 16502  
*Attorneys:* THE FAMILY LAW GROUP, LLC, 337 West 10th Street, Erie, PA 16502

**WEST, ANNA M.,  
deceased**

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Cynthia J. Bogniak 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

**YOUNG, RUSSELL L., SR., a/k/a  
RUSSELL L. YOUNG,  
deceased**

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

**THIRD PUBLICATION**

**BREINDEL, WALTER W.,  
deceased**

Late of the Township of Greene, Erie County, Commonwealth of Pennsylvania  
*Executrix:* Karen M. Omniewski, c/o 120 W. 10th St., Erie, PA 16501  
*Attorney:* Christine Hall McClure, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West 10th Street, Erie, PA 16501

**BUELL, DOLORES A., a/k/a  
DOLORES BUELL,  
deceased**

Late of the Township of Millcreek, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Benjamin L. Jarvi, 3665 Walker Ave., Fairview, PA 16415  
*Attorney:* Grant M. Yochim, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**DODICK, ALAN B.,  
deceased**

Late of the City of Erie, Erie County  
*Executrix:* Shannon Clise  
*Attorney:* William J. Kelly, Jr., Esquire, 230 West 6th Street, Suite 201, Erie, PA 16507

**GREGOROFF, CARL,  
deceased**

Late of the City of Erie, County of Erie and Commonwealth of Pennsylvania  
*Executor:* Matthew F. Gregoroff, c/o 504 State Street, Suite 300, Erie, PA 16501  
*Attorney:* Alan Natalie, Esquire, 504 State Street, Suite 300, Erie, PA 16501

**HAIBACH, NORBERT R., a/k/a  
NORBERT ROBERT HAIBACH,  
deceased**

Late of the Township of Harborcreek, County of Erie, Commonwealth of Pennsylvania  
*Executrix:* Kathleen C. Haibach, c/o 100 State Street, Suite 700, Erie, PA 16507-1459  
*Attorneys:* MacDonald, Illig, Jones & Britton LLP, 100 State Street, Suite 700, Erie, Pennsylvania 16507-1459

**HORNYAK, ANNE M.,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Jack Tabaka, 912 Reed Street, Erie, PA 16503  
*Attorney:* Michael S. Butler, Esq., Heritage Elder Law, 318 South Main Street, Butler, PA 16001

**KEEFE, LAURENCE A.,  
deceased**

Late of North East Township, Erie County, North East, PA  
*Co-executors:* Laurence A. Keefe, Jr. and Christine G. Good, c/o 33 East Main Street, North East, Pennsylvania 16428  
*Attorney:* Robert J. Jeffery, Esq., Knox McLaughlin Gornall & Sennett, P.C., 33 East Main Street, North East, Pennsylvania 16428

**KEYACK, MARIAN E.,  
deceased**

Late of the Township of Millcreek, Erie County, Pennsylvania  
*Executor:* Barry Locke, 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

**QUINLAN, BRUCE WARD, a/k/a  
BRUCE W. QUINLAN,  
deceased**

Late of the City of Erie, Erie County  
*Administrator:* Ruth E. Quinlan  
*Attorney:* Edwin W. Smith, Esq., Marsh Schaaf, LLP, 300 State Street, Suite 300, Erie, PA 16507

**REGALLA, AUDREY A., a/k/a  
AUDREY ANN REGALLA,  
deceased**

Late of Harborcreek Township, Erie County, Pennsylvania  
*Administrator:* Kenneth J. Regalla, c/o 502 Parade Street, Erie, PA 16507  
*Attorney:* Gregory L. Heidt, Esquire, 502 Parade Street, Erie, PA 16507

**RUMPF, MICHAELINA J.,  
deceased**

Late of Millcreek Township, County of Erie, Commonwealth of Pennsylvania  
*Executor:* John Rumpf, 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

**STANLEY, ELEANOR M., a/k/a  
ELEANOR MAE STANLEY,  
deceased**

Late of Harborcreek Township, Erie County, Pennsylvania  
*Executrix:* Donna L. Roesch, c/o Jerome C. Wegley, Esq., 120 West Tenth Street, Erie, PA 16501  
*Attorney:* Jerome C. Wegley, Esq., Knox McLaughlin Gornall & Sennett, P.C., 120 West Tenth Street, Erie, PA 16501

**TABAKA, MARY ROSE,  
deceased**

Late of the City of Erie, Erie County, Pennsylvania  
*Executor:* Jack Tabaka, 912 Reed Street, Erie, PA 16503  
*Attorney:* Michael S. Butler, Esq., Heritage Elder Law, 318 South Main Street, Butler, PA 16001

**TURNER, HARVEY A.,  
deceased**

Late of the Borough of McKean, County of Erie, Commonwealth of Pennsylvania  
*Executor:* Carl A. Turner, 8735 Edinboro Road, McKean, PA 16426  
*Attorney:* John M. Bartlett, Esq., 24 Main St. E., P.O. Box 87, Girard, PA 16417

**WELLS, NANCY ANN,  
deceased**

Late of Harborcreek Township, Erie County, Pennsylvania  
*Executrix:* Molly Amann, 2420 Deer Run Trail, Erie, PA 16509  
*Attorney:* Michael S. Butler, Esq., Heritage Elder Law, 318 South Main Street, Butler, PA 16001

**ATTENTION ALL ATTORNEYS**

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

**YOU ARE NOT ALONE!**

You are invited and encouraged to join a small group of fellow attorneys who meet informally in Erie twice a month. Please feel free to call Lawyers Concerned for Lawyers (LCL) at 1-888-999-1941 for meeting details and information about free confidential services available to you or your colleague.



Check out the LCL website [www.lclpa.org](http://www.lclpa.org) for free CLE videos, extensive resources and educational information.



# The Burned Out Lawyer

Recognition and Prevention Strategies in the COVID-19 World

**Friday, May 13, 2022**

**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 Paraprofessional Staff; \$60 Non-members

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

**1 hour Ethics CLE credit**

## Speaker

**Brian S. Quinn, Esq.**

*Education and Outreach Coordinator  
for Lawyers Concerned for Lawyers of PA, Inc.*



Brian S. Quinn, Esquire, is a licensed attorney in Pennsylvania who currently serves as the Education and Outreach Coordinator for Lawyers Concerned for Lawyers of Pennsylvania, Inc., a Lawyers Assistance Program established in 1988 for the purpose of helping lawyers, judges and law students recover from

alcoholism, drug addiction and mental health disorders.

Atty. Quinn obtained his undergraduate degree in 1970, his law degree in 1973 and a certificate in Drug and Alcohol counseling in 2012, from Villanova University. A member of the Pennsylvania and American Bar Associations, he has been a private practitioner for over 40 years, having litigated both civil and criminal matters during his career.

Atty. Quinn also worked in the field of alcohol and drug counseling in suburban Philadelphia from 2011 to 2017, allowing him to gain both practical and clinical experience with individuals suffering from alcohol, substance use and mental health disorders.

Atty. Quinn is a past member of the Board of Directors of Lawyers Concerned for Lawyers of Pennsylvania and served as a peer volunteer for over six years prior to accepting his current role as the organization's Educator in 2017. He has written articles and made presentations on many lawyer wellness topics to law firms, Bar Associations, professional organizations and legal education providers on a state, national and international level.

## Seminar

If there is one word we heard during our journey through the pandemic and continue to hear more than any other term as we navigate into the post-COVID "new normal" world, it is "burnout."

But what is burnout? What does it look like and feel like? More importantly, what can we do to prevent the normal stress and "lawyer anxiety" so common in our profession from developing into the physically and emotionally draining state known as burnout?

Recent studies have shown that there has been a dramatic increase in impairment due to alcoholism, addiction and mental health disorders among members of the legal profession. The statistics are compelling and clearly indicate that 1 out of 3 attorneys will likely have a need for substance use or mental health services at some point in their careers.

### Atty. Quinn will discuss:

1. The early warning signs of impairment, with special emphasis on stress and burnout:
  - symptoms of stress and burnout that are particularly prevalent among members of the legal profession;
  - discussion will include the basic stress reactions, both physical and psychological; the difference between healthy stress and distress, with emphasis on the impact of the COVID-19 pandemic;
  - guidelines for a "master plan," including realistic prevention strategies that work; and
  - intervention strategies for approaching a colleague that may be impaired.
2. Why lawyers and judges are at especially high risk to develop mental health and substance use disorders.
3. The free services that Lawyers Assistance Programs provide to lawyers, judges, their family members and law students.
4. The barriers that prevent lawyers and judges from seeking the help they need.

**TO REGISTER, VISIT:**

**<https://www.eriebar.com/events/public-registration/1753>**

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

## CHANGES IN CONTACT INFORMATION OF ECBA MEMBERS

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 Jorden Law Group, PLLC, d/b/a Erie Trial Law  
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 Erie, PA 16506 ..... [Matt@ErieTrialLaw.com](mailto:Matt@ErieTrialLaw.com)

**WILLIAM T. JORDEN** .....814-297-5950  
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## WEEKLY WRAP-UP

May 6, 2022

**U.S. Supreme Court will review Pa.'s consent-by-jurisdiction statute in toxic exposure case** - The U.S. Supreme Court will now consider whether or not it is constitutional for out-of-state companies to accept jurisdiction under Pennsylvania law as a mandate for doing business in the Commonwealth, an outcome sure to have tremendous ramifications on litigation both statewide and nationwide. On April 25, the nation's high court granted a petition for a writ of certiorari in the case of *Mallory v. Norfolk Southern Railway Company*, meaning that further arguments in the case will be heard there. Read more ... <https://pennrecord.com/stories/624559218-u-s-supreme-court-will-review-pa-s-consent-by-jurisdiction-statute-in-toxic-exposure-case>

**North Carolina becomes first state to prohibit public entities from paying ransoms** - North Carolina became the first state in the U.S. to prohibit state agencies and local government entities from paying a ransom following a ransomware attack. North Carolina's new law, which was passed as part of the state's 2021-2022 budget appropriations, prohibits government entities from paying a ransom to an attacker who has encrypted their IT systems and subsequently offers to decrypt that data in exchange for payment. The law prohibits government entities from even communicating with the attacker, instead directing them to report the ransomware attack to the North Carolina Department of Information Technology in accordance with G.S. 143B 1379. Read more ... <https://www.natlawreview.com/article/north-carolina-becomes-first-state-to-prohibit-public-entities-paying-ransoms>

**Employees sue Philadelphia Flyers, say Zamboni caused incurable disease** - Two officials from the Philadelphia Flyers are now suing the hockey team and others in state court, charging that incurable diseases the men developed resulted from their exposure to cancer-causing chemicals emitted from the Zamboni machines used to clean the ice in between periods. Plaintiff Jim McCrossin, who has been with the Flyers since 2000 and serves as its Director of Medical Services, alongside co-plaintiff Salvatore Raffa, who has been with the Flyers since 2004 and serves as its Assistant Athletic Trainer, say they were each diagnosed with incurable blood diseases and/or cancer last year. According to the suit, McCrossin contracted rare medical conditions essential thrombocythemia and myeloproliferative neoplasm, along with a terminal blood cancer named myelofibrosis, which is terminal. Read more ... <https://pennrecord.com/stories/624229569-employees-sue-philadelphia-flyers-say-zamboni-caused-incurable-disease>

**Delco man says he was defamed, after anonymous neighbor spread rumors about his shed** - A Delaware County homeowner says that due to the efforts of anonymous local individual distributing flyers false alleging that he is in possession of an unauthorized shed structure on his property, that he has suffered defamation and invasion of privacy. "The flyer falsely states, 'Make no mistake, this is NOT a shed. It is a trailer 'tiny home' complete with air conditioning and heat, situated on stone, without a foundation,' defaming plaintiff as being someone not of honest character. The flyer also falsely states without evidence that 'the installation and use of trailers, as proposed will negatively impact our property values,' defaming plaintiff as being someone attempting to harm the property values of plaintiff's neighbors; that 'This structure aesthetically does not blend with the type of homes in our neighborhood;' And 'the owners of [the residence on] Shady Hill Road have circumvented all zoning ordinances and building code regulations required by UPT', defaming plaintiff's character." Read more ... <https://pennrecord.com/stories/624558884-delco-man-says-he-was-defamed-after-anonymous-neighbor-spread-rumors-about-his-shed>

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