

Northampton County Reporter

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NO. 54

Northampton County Reporter Digest—2006-1

CONTENTS

Attorney Needed	11	Northampton County Reporter Digest—	
Audit—Orphans' Court	11	2006-1	14
Bar News	3	Notice of Amendment to Certificate of	
Estate Notices	4	Limited Liability	10
Fictitious Name Registration Notices	9	Notice of Fictitious Name Amendment ...	10
Legal Notice	11	Notices of Incorporation	8
Limited Liability Company Notices	9	Special Notice to the Bar Associations ..	12

INSERT: Blue: 1. "Secrets of the Code"

2. 2006 Calendar of Events
3. Annual 'Day on the Slopes' Registration Form
4. PBI/CLE Seminars—NCBA Office—February-April, 2006

NOTICE TO THE BAR ...

Change in June, 2006 Naturalization Court—Due to the unavailability of the Immigration Department on June 27, 2006, Naturalization Court has been changed to Thursday, June 29, 2006 at 1:30 p.m.

**NORTHAMPTON COUNTY BAR ASSOCIATION
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Northampton County Reporter

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BAR ASSOCIATION STAFF

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The Northampton County Reporter will be published every Thursday by the Northampton County Bar Association, 155 South Ninth St., Easton, PA 18042-4399. All legal notices relating to the business of the county, are required by rule of Court, to be published in this Journal. All legal notices must be submitted in typewritten form and are published exactly as submitted by the advertiser. Neither the Law Reporter nor the printer will assume any responsibility to edit, make spelling corrections, eliminate errors in grammar or make any changes to content.

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Robert C. Brown, Jr., Esquire

Editor

NOTICES TO NCBA MEMBERS—BAR NEWS

IN MEMORIAM

Harry C.J. Blair, Esquire

Admitted to NCBA: October 14, 1977

Died: January 3, 2006

Services were held January 6, 2006

Memorials may be made to:

Northampton County Juvenile Center

c/o Northampton County Government Center

669 Washington Street, Easton, PA 18042

☞ INCLUDED IN THIS ISSUE:

- **“Secrets of the Code”**—February 22, 2006 Lunch Lecture program presented by Hon. Mark I. Bernstein; registration form inside
- **NCBA** Calendar of Events, PBI Seminars and Committee Meeting schedule
- **“Annual Day on the Slopes”** February 3, 2006—Registration form

☞ THE NORTHAMPTON COUNTY COURT ANNOUNCES DATES AND TIMES FOR SWEARING-IN CEREMONIES

The **Induction Ceremony of the Hon. Anthony S. Beltrami** as Judge of Northampton County Court of Common Pleas will be held on **Friday, January 20, 2006 at 1:00 p.m. in Courtroom #1**. (Note: this is a change in time from the original notice)

If you have any questions, please call the Court Administrator's Office at (610) 559-6700.

☞ **Real Fact:** The first person in the U.S. arrested for speeding was a NYC cab driver.

ESTATE NOTICES

Notice is hereby given that in the estate 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 administrators or their attorneys named below.

FIRST PUBLICATION**BACKHUS, MURIEL A.,** dec'd.

Late of the City of Bethlehem, Northampton County, PA
Executor: John G. Backhus, IV c/o Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017
Attorney: Mary Ann Snell, Esquire, Suite 311, 3400 Bath Pike, Bethlehem, PA 18017

DORIA, ERNESTINE F., dec'd.

Late of the Borough of Wilson, Northampton County, PA
Executrix: Jennifer L. Doria c/o Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042
Attorney: Theresa Hogan, Esquire, Attorney-at-Law, 340 Spring Garden Street, Easton, PA 18042

ETTWEIN, ANNA M. a/k/a A. MILDRED ETTWEIN, dec'd.

Late of the Borough of Nazareth, Northampton County, PA
Executor: Paul J. Connolly, Sr., 281 Race Street, Bath, PA 18014
Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP,

1 South Main Street, Nazareth, PA 18064-2083

FREED, ROBERT D., dec'd.

Late of 3040 Newburg Road, Nazareth, Northampton County, PA

Administrator: Gerald M. Freed, 54 East Allen Street, Nazareth, PA 18064

Attorneys: Lee A. Conrad, Esquire, Thomas, Conrad and Conrad, 515 West Linden Street, Allentown, PA 18101

GOLAB, PELAGIA D. a/k/a POLLY GOLAB, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Louise D. Rybak c/o John W. Rybak, Esquire, 408 Adams Street, Bethlehem, PA 18105

Attorney: John W. Rybak, Esquire, 408 Adams Street, Bethlehem, PA 18105

HARTMAN, ANNE P., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Christopher P. Hartman c/o Thomas W. Houser, Esquire, 345 Gaffney Hill Road, Easton, PA 18042-9532

Attorney: Thomas W. Houser, Esquire, 345 Gaffney Hill Road, Easton, PA 18042-9532

HUERTAS, MAXIMINA, dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executrix: Mary Jane Lutton, 2615 Hader Lane, Bethlehem, PA 18015

Attorneys: Michael E. Riskin, Esquire, Riskin and Riskin, 18 E. Market St., P.O. Box 1446, Bethlehem, PA 18016-1446

OTT, JAMES E., dec'd.

Late of the Township of Plainfield, Northampton County, PA
Executor: Bruce Ott c/o David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

Attorney: David J. Ceraul, Esquire, 22 Market Street, P.O. Box 19, Bangor, PA 18013-0019

ROTH, LOIS A., dec'd.

Late of Moore Township, Northampton County, PA
Co-Administrators: Sandra Eva Moyer and Wayne A. Roth, 2679 Windswept Lane, Bath, PA 18014

Attorney: Daniel G. Spengler, Esquire, 110 East Main Street, Bath, PA 18014

SMITH, MARJORIE H., dec'd.

Late of the City of Bethlehem, Northampton County, PA
Co-Executors: Donald R. Smith and Larry W. Smith c/o Littner, Deschler & Littner, 512 N. New Street, P.O. Box 1407, Bethlehem, PA 18016-1407

Attorneys: Littner, Deschler & Littner, 512 N. New Street, P.O. Box 1407, Bethlehem, PA 18016-1407

WILSON, KENNETH S., dec'd.

Late of Bethlehem Township, Northampton County, PA
Executrix: Annette M. Wilson c/o Thomas P. Stitt, Esquire, 576 Nazareth Pike (RT 191), Nazareth, PA 18064-8400

Attorney: Thomas P. Stitt, Esquire, 576 Nazareth Pike (RT 191), Nazareth, PA 18064-8400

WINTER, HERMAN H. a/k/a HERMAN H. WINTER, SR., dec'd.

Late of East Allen Township, Northampton County, PA
Executrix: Rosetta Winter c/o James L. Reich, Esquire, Karess, Reich & Furst, PC, 215 N. 9th Street, Allentown, PA 18102

Attorneys: James L. Reich, Esquire, Karess, Reich & Furst, PC, 215 N. 9th Street, Allentown, PA 18102

SECOND PUBLICATION**BOEHMER, ROBERT T.,** dec'd.

Late of the Township of Lower Mt. Bethel, Northampton County, PA

Co-Executrices: Kathleen E. Howard a/k/a Kathleen O'Neill Leary and Eileen A. Zacharda c/o McFall, Layman & Jordan, P.C., Attorneys at Law, 134 Broadway, Bangor, PA 18013

Attorneys: McFall, Layman & Jordan, P.C., Attorneys at Law, 134 Broadway, Bangor, PA 18013

DORSHIMER, MARLA LOU, dec'd.

Late of the Township of Bushkill, Northampton County, PA
Executor: David A. Dorshimer c/o Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

Attorney: Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

FASSL, LORRAINE M., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: Craig J. Fassl c/o Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299
Attorney: Gregory R. Reed, Esquire, Attorney-at-Law, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

KOSMAN, PHYLLIS A., dec'd.

Late of the Borough of North Catasauqua, Northampton County, PA
Administrator C.T.A.: Cordell Strohl, 1135 East James Street, Lehighton, PA 18235
Attorneys: James A. Wimmer, Esquire, Philip & Wimmer, 419 Delaware Avenue, P.O. Box 157, Palmerton, PA 18071

KRAVECZ, IRENE H., dec'd.

Late of Forks Township, Northampton County, PA
Executor: Norman A. Peil, Jr., P.O. Box 20770, Lehigh Valley, PA 18002-0770
Attorneys: Mosebach, Funt, Dayton & Duckworth, P.C., P.O. Box 20770, Lehigh Valley, PA 18002-0770

LANE, JANE M., dec'd.

Late of the Borough of Portland, Northampton County, PA
Co-Executors: William E. Lane and David M. Lane c/o McFall, Layman & Jordan, P.C., Attorneys at Law, 134 Broadway, Bangor, PA 18013
Attorneys: McFall, Layman & Jordan, P.C., Attorneys at Law, 134 Broadway, Bangor, PA 18013

McHUGH, WILLIAM A., dec'd.

Late of the Township of Forks, Northampton County, PA

Executor: Joel M. Scheer, Esquire, Fishbone & Scheer, 940 West Lafayette Street, Easton, PA 18042

Attorneys: Joel M. Scheer, Esquire, Fishbone & Scheer, 940 West Lafayette Street, Easton, PA 18042

MILLER, IDA, dec'd.

Late of the Borough of Wilson, Northampton County, PA
Administrator: Sidney Golden, 828 Balata St., Easton, PA 18042

Attorneys: Gary M. Miller, Esquire, Miller & Davison, 210 E. Broad Street, Bethlehem, PA 18018

MITCH, ELSIE, dec'd.

Late of Bethlehem, Northampton County, PA
Executrix: Joan M. Honer, 2577 Easton Road, Hellertown, PA 18055

PALOS, HELEN E., dec'd.

Late of the City of Bethlehem, Northampton County, PA
Executrix: Susan E. Bennetch c/o Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726
Attorney: Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

SAUERZOPF, SOPHIE, dec'd.

Late of the Borough of Nazareth, Northampton County, PA
Co-Executors: Donna Hontz, 3407 Dighton Court, Bethlehem, PA 18020 and Augustine Sauerzopf, 371 Hillview Avenue, Nazareth, PA 18064
Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP, 1 South Main Street, Nazareth, PA 18064-2083

SCHULTER, HANS, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Richard J. Endy
c/o Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

Attorneys: Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

SEIPLE, MARGARET I., dec'd.

Late of Bath, Northampton County, PA

Executor: Daniel J. Seiple
c/o Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

Attorneys: Wendy A. Nicolosi, Esquire, Broughal & DeVito, L.L.P., 38 West Market Street, Bethlehem, PA 18018

SIEG, RUTH L., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: Keystone Nazareth Bank & Trust, Nancy S. Berlin, Vice President-Senior Fiduciary Officer, 76 South Main Street, Nazareth, PA 18064

Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP, 1 South Main Street, Nazareth, PA 18064

YELLES, LEON A., dec'd.

Late of the Township of East Allen, Northampton County, PA

Executor: Richard A. Yelles
c/o Alfred S. Pierce, Esquire, Pierce & Dally, LLP, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Alfred S. Pierce, Esquire, I.D. No. 21445, Pierce & Dally, LLP, 124 Belvidere Street, Nazareth, PA 18064

YELOVICH, ELIZABETH, dec'd.

Late of the Borough of Freemansburg, Northampton County, PA

Executor: Joseph S. Yelovich
c/o Keith D. Cacciatore, Esquire, Suite 302, 2045 Westgate Drive, Bethlehem, PA 18017

Attorney: Keith D. Cacciatore, Esquire, Suite 302, 2045 Westgate Drive, Bethlehem, PA 18017

THIRD PUBLICATION**DIEHL, JAMES C.**, dec'd.

Late of Upper Nazareth Township, Northampton County, PA

Executors: Jean B. Diehl, 157 Rose Inn Avenue, Nazareth, PA 18064 and Kirk B. Diehl, 3330 North Leisure World Boulevard, Silver Spring, MD 20906

Attorneys: Peters, Moritz, Peischl, Zulick & Landes, LLP, 1 South Main Street, Nazareth, PA 18064-2083

KLUMP, ARLENE M., dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executors: Sandra M. Palmisano and Gary D. Klump
c/o Gregory R. Reed, Esquire, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

Attorney: Gregory R. Reed, Esquire, 141 South Broad Street, P.O. Box 299, Nazareth, PA 18064-0299

LIERO, MABEL, dec'd.

Late of Pen Argyl, Northampton County, PA

Executrix: Marlene Hunter, 1070 Constitution Avenue, Pen Argyl, PA 18072

Attorney: Gilbert J. Negrete, Jr., Esquire, 251 East Broad Street, Bethlehem, PA 18018

MILLER, HORACE R., dec'd.

Late of Bethlehem, Northampton County, PA

Personal Representative: Jeffrey T. Bogert c/o Peter P. Perry, Esquire, 1600 Lehigh Parkway East, 1E, Allentown, PA 18103-3097

Attorney: Peter P. Perry, Esquire, 1600 Lehigh Parkway East, 1E, Allentown, PA 18103-3097

PRICE, EMILY a/k/a EMILY A.

PRICE, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Louis Price c/o Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

Attorney: Bradford D. Wagner, Esquire, 662 Main Street, Hellertown, PA 18055-1726

REIBMAN, PAUL DAVID a/k/a

PAUL D. REIBMAN, dec'd.

Late of Easton, Northampton County, PA

Executrix: Julie Louise Reibman c/o Noonan & Prokup, 526 Walnut St., Allentown, PA 18101

Attorneys: Noonan & Prokup, 526 Walnut St., Allentown, PA 18101

REINERT, JOYCE R., dec'd.

Late of the City of Easton, Northampton County, PA

Executor: Bradley D. Reinert c/o Raymond J. DeRaymond,

Esquire, 717 Washington Street, Easton, PA 18042-4386

Attorney: Raymond J. DeRaymond, Esquire, 717 Washington Street, Easton, PA 18042-4386

NOTICES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Pennsylvania Business Corporation Law, Act of December 21, 1988 (P.L. 1444, No. 177) as amended, by the following corporation:

The name of the corporation is:

BRIAN M. PICCIONI, P.C.

Brian M. Piccioni, Esquire
214 Main Street
Walnutport, PA 18088

Jan. 12

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is:

BROAD ENTERPRISES, INC.

The Articles of Incorporation were filed on January 6, 2006.

JAMES G. MURPHY, ESQUIRE

MURPHY & MURPHY, P.C.

106 N. Franklin St.
Suite 2
P.O. Box 97
Pen Argyl, PA 18072

Jan. 12

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for:

FAULKNER SUBARU, INC.

effective January 1, 2006. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

McNEES WALLACE
& NURICK LLC
Attorneys at Law

100 Pine Street
Harrisburg, PA 17101

Jan. 12

NOTICE IS HEREBY GIVEN that Articles of Incorporation were approved and filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg on December 10, 2005, with an effective date of January 1, 2006, for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988 (P.L. 1444, No. 177). The name of the corporation is:

S R RECYCLING, INC.

Stephen F. Recker, President
400 Daniels Road
Nazareth, PA 18060

Jan. 12

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

TC'S TRAVELING CAFÉ

has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended.

LEWIS GOODMAN, ESQUIRE
RUBIN, GLICKMAN
& STEINBERG
Solicitors

P.O. Box 1277
2605 North Broad Street
Lansdale, PA 19446

Jan. 12

**FICTITIOUS NAME
REGISTRATION NOTICES**

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of Act 1982-295, a Fictitious Name Registration was filed with the Department of State of the Commonwealth for:

**LEHIGH TRAILER SUPPLY RV
PARTS AND SERVICE**

with its principal place of business at: 8150 Seemsville Road, Northampton, PA 18067. The name and address of the person owning or interested in said business: Douglas R. Sylstra, 1200 Municipal Road, Walnutport, PA 18088.

McFALL, LAYMAN
& JORDAN, P.C.

134 Broadway
Bangor, PA 18013

Jan. 12

NOTICE IS HEREBY GIVEN, pursuant to the provisions of the Fictitious Name Act of 1982, as amended, that an application for registration of a fictitious name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the conduct of business in Pennsylvania, under the assumed or fictitious name, style or designation of:

WORDS FOR THE EYES

with its principal place of business at: 5570 Montauk Lane, Bethlehem, PA 18017. The names and address

of all persons owning or interested in said business are: Mark Hartley and Heidi J. Hartley, 5570 Montauk Lane, Bethlehem, PA 18017.

Jan. 12

**LIMITED LIABILITY COMPANY
NOTICES**

NOTICE IS HEREBY GIVEN that a Certificate of Organization for a Domestic Limited Liability Company was filed with the Department of State of the Commonwealth for:

EMPIRE AR LIMITED, LLC

in accordance with the provisions of the Limited Liability Act of 1994.

McFALL, LAYMAN
& JORDAN, P.C.

134 Broadway
Bangor, PA 18013

Jan. 12

NOTICE IS HEREBY GIVEN that a Certificate of Organization for a Domestic Limited Liability Company was filed with the Department of State of the Commonwealth for:

RIVER GAP BUILDERS, LLC

in accordance with the provisions of the Limited Liability Act of 1994.

McFALL, LAYMAN
& JORDAN, P.C.

134 Broadway
Bangor, PA 18013

Jan. 12

**NOTICE OF FICTITIOUS NAME
AMENDMENT**

NOTICE IS HEREBY GIVEN that the Certificate of Amendment to the Fictitious Name has been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of amending a Fictitious Name pursuant to 54 Pa.C.S. §312 by City Entertainment Systems organized under the provisions of Title 15 Corporations and Unincorporated Associations at 15 Pa. C.S.A. 8901 et al., approved December 7, 1994, P.L. 703, No. 106 §4 effective in sixty (60) days.

The fictitious name of Bellavia Production Services, L.L.C. shall be **City Entertainment Systems.**

MICHAEL F. CORRIERE,
ESQUIRE

I.D. No. 62255

HABER CORRIERE
& BACKENSTOE,

A Professional Corporation

433 East Broad Street

P.O. Box 1217

Bethlehem, PA 18016-1217

(610) 865-5566

Jan. 12

**NOTICE OF AMENDMENT TO
CERTIFICATE OF LIMITED
LIABILITY COMPANY**

NOTICE IS HEREBY GIVEN that the Certificate of Amendment to the Limited Liability Company has been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purpose of amending a Certificate of Limited Liability Company pursuant to 15 Pa.C.S. §8951 by City Improvements, L.L.C. organized under the provisions of Title 15 Corporations and Unincorporated Associations at 15 Pa. C.S.A. 8901 et al., approved December 7, 1994, P.L. 703, No. 106 §4 effective in sixty (60) days.

The name of the amended limited liability company is hereby changed from City Improvements, L.L.C. to **Bellavia Production Services, L.L.C.**

MICHAEL F. CORRIERE,
ESQUIRE

I.D. No. 62255

HABER CORRIERE
& BACKENSTOE,

A Professional Corporation

433 East Broad Street

P.O. Box 1217

Bethlehem, PA 18016-1217

(610) 865-5566

Jan. 12

**IN THE
NORTHAMPTON COUNTY
COURT OF COMMON PLEAS
ORPHANS' COURT DIVISION**

The following Executors, Administrators, Guardians & Trustees have filed Accounts in the Office of the Orphans' Court:

ESTATE; Accountant

LYNNETTE DIANA BALTZ
a/k/a LYNNETTE D. BALTZ; Mark
David Baltz, Executor

ELVA D. GARREN; Joy G.
Edelman a/k/a Joy Garren Hem-
ming & Gyl G. Corona, Executrices,
Stated by Joy G. Edelman a/k/a
Joy Garren Hemming, Surviving
Executrix

WELDON C. GOLD; Larry J.
Gold & Sharon L. Schuch, Co-Ex-
ecutors

OLIVE MARY HOENSTINE; Key-
stone Nazareth Bank and Trust Co.,
Formerly Nazareth National Bank
and Trust Co., Executor

CRAIG M. MIHALIK; Joan F.
Mihalik, Administratrix

MERRYL RENTSCHLER; Key-
stone Nazareth Bank & Trust Co.,
Formerly Nazareth National Bank &
Trust Co.

AUDIT NOTICE

All Parties interested are notified that an audit list will be made up of all Accounts and the said list will be called for audit at the Northampton County Government Center, Easton, PA on: FRIDAY, JANUARY 27, 2006 AT 9:00 A.M. IN COURTROOM #1.

Dorothy L. Cole
Clerk of Orphans' Court
Jan. 5, 12

CHANGE OF NAME NOTICE

IN RE: NAME CHANGE OF
JORDAN LEE BARMORE
NO. C-48-CV-2005-9488

NOTICE IS HEREBY GIVEN that on December 30, 2005, the Petition of Jordan Lee Barmore, a minor, was filed in the Court of Common Pleas of Northampton County, Pennsylvania, praying for a Decree to change his name to Jordan Lee Barmore-Amador.

The Court has fixed February 23, 2006 at 9:00 a.m. in Room 229 of the Northampton County Government Center, 669 Washington Street, Easton, PA 18042, as the time and place of the hearing of said Petition, when all interested persons may appear and show cause, if any they have, why the prayer of said Petition should not be granted.

JOEL M. SCHEER, ESQUIRE
Attorney for Petitioner
940 West Lafayette Street
Easton, PA 18042

Jan. 12

ATTORNEY NEEDED

Attorney to work in Bethlehem office will handle varied civil caseload including custody, housing, SSI, consumer cases. Candidates will be evaluated on their oral, writing and advocacy skills as well as involvement in law school clinics and public interest law. PA Bar or by admission required. Some travel. Resumes will be accepted until position filled. Salary DOE. Entry level salary is \$30,000. Competitive fringe benefits. Reply to HR Manager, Ref. 010806LV, North Penn Legal Services, 329 Market St., Williamsport, PA 17701 or resumes@northpennlegal.org. EOE

Jan 12

SPECIAL NOTICE TO THE BAR ASSOCIATIONS

Please be advised that the Philadelphia Lawyers' Open Forum no longer exists. This monthly meeting was held for several years and helped many lawyers in the greater Philadelphia area seeking information or guidance for stress, anxiety or depression. Its success was tied directly to Dr. Garcia's sensitivity to the stressors faced by lawyers and his genuine desire to be of assistance. It has been closed as a result of Dr. Garcia leaving the area.

LCL volunteers continue to hold private, lawyer only, 12-Step recovery meetings in the following cities: Camp Hill, Doylestown, Drexel Hill, Norristown, Philadelphia, Pittsburgh and Scranton. For more information about these meetings, including location, dates and times, call LCL at 1-800-335-2572 or e-mail LCL at admin@lclpa.org.

Also, don't forget to visit our website at www.lclpa.org.

Jan. 12

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NORTHAMPTON COUNTY REPORTER DIGEST—2006-1
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS
OF NORTHAMPTON COUNTY

COMMONWEALTH OF PENNSYLVANIA v. TINA MARIE WHITE

Habeas Corpus Petition

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division No. 2005-0573.

Order of the Court denying defendant's habeas corpus petition.

Abraham Kassis, Esquire for Commonwealth.

Tommaso Lonardo, Esquire for Defendant.

Order of the court entered Qn August 22, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Police responded to a noise complaint at approximately 12:30 a.m. Upon arriving at the scene, police observed a black Toyota Coupe parked in the roadway, playing loud music, engine running, with its four way flashers turned on. The defendant was inside the car, slumped in the driver's seat. It took police several attempts to awake defendant and when she finally awoke, she had problems rolling the window down and was disoriented. Police charged defendant with Driving Under the Influence. To establish a *prima facie* case "the Commonwealth must show sufficient probable cause that the defendant committed the offense, and the evidence should be such that if presented at trial, and accepted as true, the judge would be warranted in allowing the case to go to the jury." *Commonwealth v. Saunders*, 691 A.2d 946, 948 (Pa. Super 1997). In *Commonwealth v. Crum*, 533 A.2d 799, the Superior Court of Pennsylvania held that evidence that a defendant was parked on the side of the road, slumped over in the driver's seat, engine running, with the lights on "was sufficient to support an inference that [the] appellant was in control of either the machinery of the motor vehicle or the management of the motor vehicle itself, despite the fact that appellant's vehicle was not observed in motion." *Id.* at 802. The facts in the instant action are sufficient to show probable cause that White was in actual physical control of the vehicle, and if this evidence was presented at trial, the court would be warranted in allowing the case to go to verdict.

Defendant also contends that §3802 of the DUI statute is unconstitutional. Our consideration of this issue is foreclosed. The Honorable Leonard Zito of this court has ruled that 75 Pa.C.S.A. §3802 is constitutional. *Commonwealth v. Kozo*, Northampton County Court of Common Pleas at No. 1553-2004. When the law of a judicial district has been established, it is the duty of other judges of the same judicial district to follow that ruling. *Schmid Motor Vehicle Operator License Case v. Commonwealth*, 196 Pa. Super. 120, 173 A.2d 758, (1961).

JOHN CUNNANE v. CANDLELIGHT INN

Motion for Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division, No. C0048CV20041887.

Order of Court denying defendant's motion for summary judgment.

Richard Orloski, Esquire for Plaintiff.

Michael DeMarco, Esquire for Defendant.

Order of the court entered on September 8, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Plaintiff tripped over an ice sculpture that was placed at the foot of the back door stairs by an employee of the Candlelight Inn. Plaintiff had paid to attend a New Year's Eve party at the Candlelight Inn. After the party ended, plaintiff was assisting the disc jockey load equipment into a van that was parked at the back door. Plaintiff was walking backwards down the steps when he tripped over the large ice sculpture. The court denied defendant's motion for summary judgment because the doctrine of assumption of risk is inapplicable in the instant action. The doctrine of assumption of risk is applicable in only three instances. *Howell v. Clyde*, 533 Pa. 151, 620 A.2d 1107, 1113 n.10 (1993). Those instances are when the case involves an express assumption of risk, when the case is brought under the theory of strict liability, or when the case is one where a statute specifically preserves the defense of assumption of risk. *Id.* Since the instant action did not involve an instance when the doctrine of assumption of risk is applicable, summary judgment was denied. The court also denied defendant's motion for summary judgment because the determination of whether a visitor is an invitee or licensee is a question of fact for the jury. *See* Restatement (Second) of Torts §332, comment 1.

ERIE INSURANCE EXCHANGE v. BARBER STREET APPAREL, FAUSTO DIOADAORDO, AND ESTATE OF CAROL DIOADAORDO

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division. No. C4800CV2005-3739.

Order of the court denying defendant's preliminary objections to jurisdiction.

Cary R. Breon, Esquire for Plaintiff.

Jerry R. Knafo, Esquire for Defendant.

Order of the court entered on September 22, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendants filed preliminary objections to plaintiff's declaratory judgment action claiming that the court lacks jurisdiction over matter because of the language in the insurance contract that requires arbitration in certain circumstances. Under Pennsylvania law, the determination of whether an issue must be submitted to arbitration depends on (1) whether the parties entered into an agreement to arbitrate, and (2) whether the dispute falls within the scope of that agreement. *State Farm Mutual Automobile Insurance Co. v. Coviello*, 233 F.3d 710, 716 (3rd Cir. 2000); *see e.g., Flightways Corp. v. Keystone Helicopter Corp.*, 459 Pa. 660, 331 A.2d 184, 185 (1975). The court denied defendants' preliminary objections because the language in the insurance contract required arbitration in two circumstances, fault and damages. Any other issues were to be determined by a court. The issues involving whether a person is an uninsured motorist and whether the insured is covered under the policy for a particular incident do not fit into either category of fault or damages; therefore, the court found it had jurisdiction over the instant action.

Additionally, the Erie Insurance Policy provides that any arbitration proceeding will follow the provisions of the Arbitration Act of 1927, which permits a court to correct an arbitration award on the basis of an error of law. *See Bottomer v. Progressive Casualty Insurance Co.*, 816 A.2d at 1175. Traditionally, “allowing a declaratory judgment to proceed in the face of an otherwise valid arbitration agreement would defeat the agreed upon terms of the contract, [b]ut [u]nder the Arbitration Act of 1927 this is ultimately not a concern [because] the specific terms of the policy allow for judicial review.” 816 A.2d at 1175 ((citing *Erie Insurance Exchange v. Midili*, 675 A.2d 1277 (Pa. Super 1996), (citing *Azpell v. Old Republic Insurance Co.* 526 Pa. 179, 584 A.2d 950 (1991))). The court found that in the interest of expediting the litigation, the issues presented in the instant action should be decided by a court and not an arbitration panel.

IN RE: ESTATE OF RUTH MUSCHLITZ

Motion To Dismiss for Lack of Standing

In the Court of Common Pleas of Northampton County, Pennsylvania, Orphans’ Court Division, No. 1994-0569.

Order of the Court denying.

Kevin Danyi, Esquire for Petitioner.

Theresa Hogan, Esquire for Objector.

Order of the court entered on September 8, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Ruth Muschlitz’ will provided for her brother Paul Muschlitz to receive a life estate in her residence and income distributions from her residuary estate. The will also designated her sisters Grace Meyer and Evelyn Stewart as the remainder beneficiaries. Ruth Muschlitz predeceased her brother and both remainder beneficiaries. Grace Meyer and Evelyn Stewart predeceased Paul Muschlitz; therefore, the residue of Ruth Muschlitz’ Estate fell into intestacy. The Estate of Ruth Muschlitz filed a proposed distribution plan which excluded Paul Muschlitz as a beneficiary. Under the Pennsylvania Intestate Succession Statute Paul Muschlitz had standing to challenge the proposed distribution plan. Nothing in Ruth Muschlitz’ will indicated that since she had provided Paul Muschlitz with a life estate, she intended that he not inherit under intestacy laws; therefore the Estate of Paul Muschlitz had standing to challenge the distribution plan.

**EDUARDO AND JANET GARCIA v. MICHAEL BUSCH, M.D., AND
C.H.S. PROFESSIONAL PRACTICE, P.C.**

Motion for Summary Judgment

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division. No. C00048CV2001001235.

Order of the Court denying defendant’s motion for summary judgment.

Todd Miller, Esquire for Plaintiff.

Candy Heimbach, Esquire for Defendant.

Order of the court entered on September 23, 2005 by Robert A. Freedberg, President Judge

DESCRIPTION OF DECISION

Defendants' motion for summary judgment results from the loss of x-rays of plaintiff's right wrist and elbow. Pursuant to a discovery request, the x-rays were turned over to plaintiff who forwarded them to a doctor in Texas who was being consulted for an opinion regarding whether defendant breached the standard of care. Counsel for the parties agree that the Texas doctor lost the x-rays with the exception of one picture which was returned in a torn condition. The Pennsylvania Supreme Court addressed the standards to be applied regarding a request for sanctions for spoliation of evidence in *Schroeder v. Commonwealth, Department of Transportation*, 551 Pa. 243, 710 A.2d 23 (1998). The Supreme Court stated, "Fashioning a sanction for the spoliation of evidence based upon fault, prejudice and the available sanctions will discourage intentional destruction." at 27. The factors to be considered are: (1) the degree of fault of the party who altered or destroyed the evidence; (2) the degree of prejudice suffered by the opposing party, and (3) the availability of a lesser sanction that will protect the opposing party's rights and deter future similar conduct. The court denied defendant's motion for summary judgment after balancing the factors and concluding that plaintiffs were not at fault. Rather, the evidence was destroyed by a third party. In the absence of negligence or bad faith, the sanction of summary judgment is not appropriate even though evidence placed in the possession of a third party has been lost. *Schroeder v. Commonwealth of Pennsylvania, Department of Transportation*, supra at 27; *Dansak v. Cameron Coca Cola Bottling Co.*, 703 A.2d 489 (Pa. Super. 1997); but see *Oxford Presbyterian Church v. Weil-McLain Co., Inc.*, 815 A.2d 1094 (Pa. Super. 2003) holding a party at fault for spoliation by its agent.

**RUBEN RIOS, SR., SABRINA RIOS AND RUBEN RIOS, JR. v.
CHRISTINA VELESARIS**

Preliminary Objections

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division. No. C4800CV2005-668.

Order of the Court denying defendant's preliminary objections.

Kristin Harvey, Esquire for the Plaintiff.

Jason Banonis, Esquire for the Defendant.

Order of the Court entered on September 22, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Defendant objects to the plaintiff's service of the complaint. Plaintiffs filed a writ of summons on the day before the statute of limitations would have run. An order for service was forwarded to the Northampton County Sheriff, which deputized the Montgomery County Sheriff to complete service on the defendant. The defendant had moved from her last known address in Montgomery County, so the sheriff was unable to make good service. Plaintiffs attempted to locate a current address for the defendant by contacting her insurance company, contacting telephone directory, contacting the United States Postal Service, and conducting an internet search. None of those searches were successful in locating a valid address for the defendant. Plaintiffs eventually located a valid address for defendant by hiring a locator service. During the search for defendant's valid address, plaintiffs reissued the writ of summons twice, although not within an exact thirty-day period of the previous writ of summons. Filing of a writ of summons

commences an action and tolls the statute of limitations. Pa. R.C.P. No. 1007, 42 Pa. C.S.A. For a writ of summons to remain effective to commence an action under Pennsylvania law, a “plaintiff need only make a good faith effort to serve defendants, which must be determined by the court using its sound discretion on a case-by-case basis.” *Parr v. Roman*, 822 A.2d 78, 80 (Pa. Super. 2003). A good faith effort does not require the plaintiff to immediately and continually reinstate the writ of summons after the statute of limitations has expired. *Id.* The record in the instant action establishes that plaintiffs did make a good faith effort to serve the defendant.

**ROBERT TAYLOR, MONA TAYLOR, AND ROBERT TAYLOR INC. v.
LOWER MOUNT BETHEL TOWNSHIP ZONING HEARING BOARD v.
LOWER MOUNT BETHEL ENERGY LLC**

Appeal From the Lower Mount Bethel Zoning Hearing Board's Determination

In the Court of Common Pleas of Northampton County, Pennsylvania. Civil Division. No. C0048CV2005-1029.

Order of Court denying appellant's appeal.

Christopher M. Shipman, Esquire for Appellant.

Christopher T. Spadoni, Esquire for Appellee.

Malcolm J. Gross, Esquire for Intervenor.

Order of court entered on August 18, 2005 by Robert A. Freedberg, President Judge.

DESCRIPTION OF DECISION

Appellant appealed the Lower Mount Bethel Zoning Hearing Board's denial of his zoning appeal. The court denied appellant's appeal because the appellant failed to prove that he was entitled to a full five member zoning hearing board hearing. Plaintiff alleged that a document titled Lower Mount Bethel Zoning Hearing Board Appeal Procedures and Policy created the right to a full five member board hearing when the applicant requested the full hearing. The Procedures and Policy document simply states when four members of the board were present an applicant can request a full board hearing to avoid a tie. A tie vote in a four member hearing would result in a denial of the appeal. The clear intent of this procedure is not to penalize the applicant for a split vote. The Zoning Hearing Board in appellant's appeal consisted of three members, which is a valid quorum under section 906(a) of the Municipal Planning Code; therefore, the actions of this Zoning Hearing Board were valid. Plaintiff attempted to establish that he was entitled to a full board hearing through the doctrines of variance by estoppel and equitable estoppel. Neither of these doctrines were raised when plaintiff appeared before the Zoning Hearing Board, so plaintiff waived these arguments on appeal *Society Created to Reduce Urban Blight v. Zoning Board of Adjustment*, 804 A.2d 116, 119 (Pa. Commw. 2002). Even if the plaintiff had properly made these arguments before the Zoning Hearing Board, the elements of the doctrines were not met. Variance by estoppel applies when the municipality has acquiesced in a property owner's contrary use of his property over a long period of time. *Colelli v. Zoning Board of Adjustment of the City of Pittsburgh*, 131 Pa. Commonwealth Ct. 615, 571 A.2d 533, 534 (1990). The doctrine is inapplicable in this case because the appellant was not the property owner nor seeking a variance. The doctrine of equitable estoppel requires a negligent or intentional misrepresentation by the party. *Cicchiello v. Bloomsburg Zoning Hearing Board*, 151 Pa. Commonwealth Ct. 506, 617 A.2d 835, 837 (1993). As stated above, the Zoning Hearing Board represented that appellant was entitled to a

full board hearing when there were four members present, not in all circumstances; therefore, there was no negligent misrepresentation on behalf of the Zoning Hearing Board.

Appellant also argued that the Zoning Hearing Board that heard his appeal did not take the required oath in section 501 of the Second Class Township Code. Again, appellant failed to argue this when appearing before the Zoning Hearing Board, so the issue is waived on appeal. 804 A.2d at 119. Even if the court were to consider the issue, *Borough of Pleasant Hills v. Jefferson Township*, 359 Pa. 509, 59 A.2d 697, 699 (1948) makes it clear that acts made by a Zoning Hearing Board even without the members subscribing to an oath or affirmation, are valid with respect to the public. Furthermore, the only party that may challenge the legitimacy of the Zoning Hearing Board to serve is the Commonwealth. *Id.*

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