

# Northampton County Reporter

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NO. 114

Northampton County Reporter Digest—2007-3

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### INSERT: Green: 1. 37th Annual Reception for the Court

2. 2007 Calendar of Events

3. "Medicare Reimbursement in Personal Injury Cases"

4. PBI/CLE Seminars—NCBA Office: March-April, 2007

Pink: 1. Quarterly Association Meeting

2. "Automotive Product Liability"

3. "Rules of Thumb and Other Things You May  
Not Know About Practicing Before the  
Special Masters in Northampton County"

4. "Avoiding Hiring Minefields—How Not to Hire a Lawsuit"

Cream: 1. 2007 BALC/NCBA Joint Dinner

2. "Family Law & Immigration Issues"

### NOTICE TO THE BAR...

#### Reminders:

Quarterly Association Meeting—March 15, 2007

Annual Reception for the Court—March 30, 2007

Register now for these events!

**NORTHAMPTON COUNTY BAR ASSOCIATION  
2007 BAR ASSOCIATION OFFICERS**

Joel H. Ziev ..... President  
Michael C. Deschler ..... President-elect  
Joseph A. Corpora, III ..... Vice President  
Jacqueline M. Taschner ..... Treasurer  
Kerry S. Freidl ..... Secretary  
Richard P. Kovacs ..... Past President

**BOARD OF GOVERNORS**

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Alyssa A. Lopiano-Reilly  
Samuel P. Murray  
Daniel M. O'Donnell  
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**ZONE II DELEGATES**

Barbara L. Hollenbach  
Karl F. Longenbach  
Nicholas Noel, III  
Joel M. Scheer  
Michael P. Shay  
Ronald W. Shipman

*Northampton County Reporter*  
**Attorney Referral & Information Service**  
**155 South Ninth Street, Easton, PA 18042-4399**  
**Phone (610) 258-6333 Fax (610) 258-8715**  
**E-mail: [ncba@norcobar.org](mailto:ncba@norcobar.org)**  
**PBA (800) 932-0311—PBI (800) 932-4637**  
**BAR ASSOCIATION STAFF**

Mary Beth Leeson ..... Executive Director  
Stephanie Pasquel ..... Accounting  
Heather Rizzotto-Stefanik ..... Legal Journal  
Gloria A. Robison ..... Attorney Referral  
Deborah J. Flanagan ..... Attorney Referral

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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**

**Included in This Issue:**

- ★ **NEW—Joint Dinner Meeting of BALC and NCBA**—April 11, 2007, Best Western, Bethlehem
- ★ **Quarterly Association Meeting**—March 15, 2007, Best Western, Bethlehem.
- ★ **Reception for the Court**—March 30, 2007, Silver Creek Country Club, Hellertown
- ★ **NCBA Calendar of Events**
- ★ **PBI/CLE Seminars, March—April**

**Lunch Lectures:**

- ★ **“Automotive Product Liability”**—March 21, 2007, NCBA Office.
- ★ **“Family Law and Immigration Issues”**—March 23, 2007, NCBA Office.
- ★ **“Rules of Thumb and Other Things You May Not Know About Practicing Before the Special Masters in Northampton County”**—March 28, 2007, NCBA Office. *First in a series of introductory level seminars presented by the YLD. All members are welcome to attend.*
- ★ **“Avoiding Hiring Minefields—How Not to Hire a Lawsuit”**—April 11, 2007, NCBA Office
- ★ **“Medicare Reimbursements in Personal Injury Cases”**—April 18, 2007, NCBA Office

**The Iron Pigs are Coming!**

**NCBA and BALC Joint Dinner Meeting**—Wednesday, April 11, 2007 at the Best Western, Bethlehem. Kurt Landes, General Manager of the Iron Pigs, will present a program on the future of baseball in the Lehigh Valley.

**Annual “Day on the Slopes”**—cancelled.

We resent all criticism which denies us anything that lies in our line of advance.—Ralph Waldo Emerson, 1803-1882

**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****BEALER, JOHN L. a/k/a JOHN****BEALER**, dec'd.

Late of the City of Bethlehem, Northampton County, PA  
 Executrix: Janet Bealer Moyer, 4613 Greenfield Road, Bethlehem, PA 18017

Attorney: James J. Holzinger, Esquire, 1216 Linden Street, P.O. Box 1409, Bethlehem, PA 18016

**BIECHY, ROMA M.**, dec'd.

Late of the Township of Lehigh, Northampton County, PA

Executrix: Sandra A. Nocek, 3840 Holly Drive, Danielsville, PA 18038

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

**FREEDBERG, GERTRUDE**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Barbara J. Brown c/o Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

Attorneys: Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

**HUBBS, CHARLES HENRY**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Co-Executors: Jane Ruth Murray and James Edgar Hubbs c/o Lawrence Center, Esquire, P.O. Box 1248, 60 W. Broad St., Ste. 103, Bethlehem, PA 18016

Attorney: Lawrence Center, Esquire, P.O. Box 1248, 60 W. Broad St., Ste. 103, Bethlehem, PA 18016

**JeBRAN, JAMES J.**, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Camille JeBran c/o Edward H. Butz, Esquire, Lamm Rubenstone Lesavoy Butz & David LLC, 7535 Windsor Drive, Suite 200, Allentown, PA 18195

Attorneys: Edward H. Butz, Esquire, Lamm Rubenstone Lesavoy Butz & David LLC, 7535 Windsor Drive, Suite 200, Allentown, PA 18195

**LONGCOR, STANLEY DAVID a/k/a S. DAVID LONGCOR a/k/a DAVID LONGCOR a/k/a STANLEY LONGCOR a/k/a STANLEY D. LONGCOR**, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Sheldon L. Richards, 886 Ridge Rd., Bangor, PA 18013

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

**MITMAN, PAULINE M.**, dec'd.

Late of the Township of Lower Nazareth, Northampton County, PA

Co-Executors: Luther Mitman and Gloria J. Almer 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

**NELSON, WARREN W.**, dec'd.

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

Executor: Thomas Nelson 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

**O'SULLIVAN, MARY E.**, dec'd.

Late of the Borough of Pen Argyl, Northampton County, PA

Executrix: Maureen A. Frank, 160 Glade Drive, Long Pond, PA 18334

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

**PEPPELL, L. JAMES**, dec'd.

Late of Upper Nazareth Township, Northampton County, PA

Co-Executors: Sandra F. McIntyre, 5 East Lawn Road, Nazareth, PA 18064-1016 and James S. Peppell, 355 North New Street, Nazareth, PA 18064-1631

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

**SECOND PUBLICATION****AMY, SHERWOOD J.**, dec'd.

Late of the Township of Plainfield, Northampton County, PA

Executrix: Donna M. Ruth c/o Craig A. Dally, Esquire, Pierce & Dally, LLP, 124 Belvidere Street, Nazareth, PA 18064

Attorneys: Craig A. Dally, Esquire, Pierce & Dally, LLP, 124 Belvidere Street, Nazareth, PA 18064

**BUCK, EDWARD A.**, dec'd.

Late of the Township of Palmer, Northampton County, PA

Executrix: Elizabeth Ann Coyle c/o Karl H. Kline, Esquire, Karl Kline P.C., 2925 William Penn Highway, Suite 301, Easton, PA 18045-5283

Attorneys: Karl H. Kline, Esquire, Karl Kline P.C., 2925 William Penn Highway, Suite 301, Easton, PA 18045-5283

**CASCIANO, SADIE**, dec'd.

Late of the Borough of Nazareth, Northampton County, PA

Executor: James H. Rehrig 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

**FABIAN, MARGARET**, dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Frank Fabian, 3723 Fire Lane, Bethlehem, PA 18015

**FISCHL, HERMAN S.,** dec'd.

Late of Upper Nazareth Township, Northampton County, PA

Executrix: Lillian F. Teklits, 39 E. Allen Street, Nazareth, PA 18064

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

**GRUBE, EVELYN L.,** dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Nancy A. Eyster c/o Dennis P. Ortwein, Esquire, 5201 William Penn Highway, Easton, PA 18045  
Attorney: Dennis P. Ortwein, Esquire, 5201 William Penn Highway, Easton, PA 18045

**HAPPEL, EVELYN M.,** dec'd.

Late of the Township of Forks, Northampton County, PA

Executrix: Carole L. Steckel, 358 Schoeneck Ave., Nazareth, PA 18064

**HEFFELFINGER, CHARLES R.,** dec'd.

Late of Lehigh Township, Northampton County, PA

Co-Administrators CTA: Peggy S. Holtzinger, 548 Lehigh Drive, Palmerton, PA 18071 and Jesse J. Heffelfinger, 2185 Wassergass Rd., Hellertown, PA 18055

Attorneys: David B. Shulman, Esquire, Shulman, Shabbick & Ettinger, 1935 Center Street, Northampton, PA 18067

**JROSKI, MARY M.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Executrix: Mary L. Febbo c/o Karl H. Kline, Esquire, Karl Kline P.C., 2925 William Penn

Highway, Suite 301, Easton, PA 18045-5283

Attorneys: Karl H. Kline, Esquire, Karl Kline P.C., 2925 William Penn Highway, Suite 301, Easton, PA 18045-5283

**KAROLY, PETER J. a/k/a PETER J. KAROLY, ESQUIRE,** dec'd.

Late of Bethlehem, Northampton County, PA

Executor: David S. Smith, Esquire c/o Larry R. Roth, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102

Attorneys: Larry R. Roth, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102

**KOLB, EMILIA C.,** dec'd.

Late of the Borough of Wind Gap, Northampton County, PA

Executrix: Joanne L. Miller 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

**MAY, FREDERICK E., III,** dec'd.

Late of the Township of Forks, Northampton County, PA

Administratrix: Judy A. May c/o Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

Attorneys: Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

**MIGA, MARGARET M.,** dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Co-Executors: John F. Miga, Jr. and Joanne Brenneman c/o Mickey K. Thompson, Esquire, Thompson Law Offices, 115 East Broad Street, Bethlehem, PA 18018

Attorneys: Mickey K. Thompson, Esquire, Thompson Law Offices, 115 East Broad Street, Bethlehem, PA 18018

**MURPHY, JOHN J.,** dec'd.

Late of the Township of Palmer, Northampton County, PA  
Administratrix: Pauline A. Murphy c/o Joel H. Ziev, Esquire, 700 Washington Street, Easton, PA 18042

Attorney: Joel H. Ziev, Esquire, 700 Washington Street, Easton, PA 18042

**PELLECHIA, ANTONETTE,** dec'd.

Late of the Borough of Roseto, Northampton County, PA  
Executor: James Nicholas Pellechia 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

**POFF, GERALDINE J.,** dec'd.

Late of Wilson Borough, Northampton County, PA  
Executor: Charles T. Poff, Jr. c/o Richard H. Yetter, III, Esquire, 4480 William Penn Highway, Easton, PA 18045  
Attorney: Richard H. Yetter, III, Esquire, 4480 William Penn Highway, Easton, PA 18045

**SCHIELZO, GLORIA DORIS,** dec'd.

Late of the Township of Hanover, Northampton County, PA

Executrix: Ms. Jacqueline Bertolotti, 4564 Greenfield Road, Bethlehem, PA 18017

Attorney: Vaughn A. Terrinoni, Esquire, 3976 Township Line Road, Bethlehem, PA 18020

**SCHOENY, RICHARD L.,** dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Gayle M. Kilpatrick c/o Jacob S. Kolb, Esquire, Kolb, Vasiliadis and Florenz, 74 West Broad Street, Ste. 170, Bethlehem, PA 18018-5738

Attorneys: Jacob S. Kolb, Esquire, Kolb, Vasiliadis and Florenz, 74 West Broad Street, Ste. 170, Bethlehem, PA 18018-5738

**SKRZENSKI, ARTHUR E., SR.,** dec'd.

Late of the Borough of Wilson, Northampton County, PA

Co-Executors: Arthur E. Skrzenski, Jr. and Andrew M. Skrzenski c/o Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

Attorneys: Daniel E. Cohen, Attorney, Laub, Seidel, Cohen, Hof & Reid, L.L.C., 8 Centre Square, Easton, PA 18042

**SZAPKA, JOSEPH A.,** dec'd.

Late of Northampton, Northampton County, PA

Executrix: Cynthia A. Szapka c/o Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

Attorneys: Fitzpatrick Lentz & Bubba, P.C., 4001 Schoolhouse Lane, P.O. Box 219, Center Valley, PA 18034-0219

**UHLER, CHARLES T.,** dec'd.

Late of the Borough of Stockertown, Northampton County, PA

Co-Executrices: Jean A. Parenti and Jane A. Parenti 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

**THIRD PUBLICATION****BECKER, KAREN J. a/k/a**

**KAREN A. BECKER,** dec'd.

Late of the Township of Upper Nazareth, Northampton County, PA

Executor: Stephen R. Adams, 1537 Moraga Way, Moraga, CA 94556

**BELTZ, JAMES C., JR.,** dec'd.

Late of Bethlehem City, Northampton County, PA

Administratrix: Marybeth Dreisbach c/o Eric J. Swan, Esquire, Galfand Berger, LLP, 1818 Market Street, Suite 2300, Philadelphia, PA 19103  
Attorneys: Eric J. Swan, Esquire, Galfand Berger, LLP, 1818 Market Street, Suite 2300, Philadelphia, PA 19103

**FERRY, JAMIE,** dec'd.

Late of Northampton, Northampton County, PA

Administratrix: Deborah Ruch c/o Nancy K. Busch, Esquire, 825 North 19th Street, Allentown, PA 18104

Attorney: Nancy K. Busch, Esquire, 825 North 19th Street, Allentown, PA 18104

**MANGOLD, ALVIN E.,** dec'd.

Late of Northampton Township, Northampton County, PA

Co-Executors: Robert Mangold, 48 Farmway Dr., Richboro, PA 18954, Alvin Christopher Mangold, 1340 Lipo Way, P.O. Box 429, Albrightsville, PA 18210 and David Mangold, 72 Bellwood Dr., Feasterville, PA 19053

Attorneys: Richard I. Torpey, Esquire, Howland Hess Guinan Torpey & Cassidy LLP, 2444 Huntingdon Pike, Huntingdon Valley, PA 19006

**OHL, ELIZABETH M.,** dec'd.

Late of the Borough of Bath, Northampton County, PA

Executrix: Barbara A. Wagner, 10 Hickory Hills Drive, Bath, PA 18014

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

**SCARTELLI, EVELYN M. a/k/a**

**EVELYN SCARTELLI,** dec'd.

Late of the Township of Palmer, Northampton County, PA  
Executrix: Rosaire M. Matlock, 3066 Clearview Street, Easton, PA 18045

Attorneys: Louis S. Minotti, Jr., Esquire, Minotti & DeEsch, 2240 Northampton Street, Easton, PA 18042

**SCHOENENBERGER, ELIZABETH M.,** dec'd.

Late of the Borough of Hellertown, Northampton County, PA

Executrix: Lorraine T. Stephens 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

**SHIMER, ELEANOR K.**, dec'd.  
Late of 4007 Green Pond Rd., Apt. 128A, Bethlehem, Northampton County, PA  
Executor: Eric R. Shimer, Esquire, 1 Bethlehem Plz., Ste. 830, Bethlehem, PA 18018  
Attorney: Eric R. Shimer, Esquire, 1 Bethlehem Plz., Ste. 830, Bethlehem, PA 18018

**TASSIE, THOMAS V.**, dec'd.  
Late of the Borough of North Catasauqua, Northampton County, PA  
Executrix: Rosann Paukovitz c/o Dionysios C. Pappas, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020  
Attorneys: Dionysios C. Pappas, Esquire, Vasiliadis & Associates, 2551 Baglyos Circle, Suite A-14, Bethlehem, PA 18020

**TERRY, CATHERINE S.**, dec'd.  
Late of the City of Bethlehem, Northampton County, PA  
Co-Executors: Linda T. Heuser and Creed R. Terry 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

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**ESTATE NOTICE**

THE ESTATE OF MARGUERITE TORESCO, DECEASED  
AFFIDAVIT FOR CITATION TO COMPEL APPLICATION FOR LETTERS PURSUANT TO 20 PA. CONS. STAT. §3155 TO ALL WHOM MAY BE INTERESTED:

NOTICE IS HEREBY GIVEN that, a Citation has been issued by the

Register of Wills in and for Northampton County, Pennsylvania, at the request of Sonja Fesenmaier to Albert Toresco and Randie Scialabba, to appear before said Register of Wills at her office in the Northampton County Courthouse on March 15, 2007, at 9:00 A.M. to show cause, why they should not apply for and take out letters of administration in the Estate aforesaid, or failing to show cause why such letters should not be granted to Sonja Fesenmaier or her assigns said letters shall be issued to Sonja Fesenmaier or her assigns. Request is hereby made that all persons who may have an interest in this matter make such interest known to Sonja Fesenmaier by and to her attorney, Joel H. Ziev, Esquire, 700 Washington Street, Easton, PA 18042, without delay.

JOEL H. ZIEV, ESQUIRE  
700 Washington Street  
Easton, PA 18042

Mar. 1, 8, 15

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**NOTICES OF INCORPORATION**  
**DAN GUTH**  
**CONSTRUCTION, INC.**

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

Mar. 8

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**GREGG CASE INC.**

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

Mar. 8

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, on February 20, 2007,

for the purpose of obtaining a Certificate of Incorporation of a proposed Business Corporation to be organized under the provisions of the Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is:

**MARK W, INC.**

Paul A. Florenz, Attorney  
74 W. Broad Street  
Suite 170  
Bethlehem, PA 18018-5738

Mar. 8

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed on February 22, 2007, 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 Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is:

**MILLENNIA  
COMMUNICATIONS, INC.**

Christopher T. Spadoni, Esquire  
Pa. I.D. No. 24817  
1216 Linden Street  
P.O. Box 1409  
Bethlehem, PA 18016-1409  
Phone: (610) 867-3938  
Fax: (610) 625-4788

Mar. 8

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania.

The name of the corporation is:

**m.rae resources, inc.**

The corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

BERNARD M. LESAVOY,  
ESQUIRE  
LAMM RUBENSTONE LESAVOY  
BUTZ & DAVID LLC

One Windsor Plaza  
7535 Windsor Drive  
Suite 200  
Allentown, PA 18195-1014

Mar. 8

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:

**THE COUNTER OPTIONS, INC.**

The Articles of Incorporation were filed on February 28, 2007.

JAMES G. MURPHY, ESQUIRE  
MURPHY & MURPHY, P.C.  
106 N. Franklin St.  
Suite 2  
P.O. Box 97  
Pen Argyl, PA 18072

Mar. 8

**FICTITIOUS NAME  
REGISTRATION NOTICE**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Act 295 of 1982 (54 Pa. C.S.A. §311), of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on February 12, 2007, of a fictitious name registration for the conduct of a business in Northampton County, Pennsylvania, under the

assumed or fictitious name, style or designation of:

**MANHATTAN GRILL & DELI**

with its registered place of business at: 4440 Easton Avenue, Bethlehem, Northampton County, Pennsylvania.

The individuals interested in the said business are: Dilbag Singh, Deepak Bhatnagar and Kuldeep Kumar.

BOYER, HOLZINGER,  
HARAK & SCOMILLIO

1216 Linden Street  
P.O. Box 1409  
Bethlehem, PA 18016

Mar. 8

**PROFESSIONAL CORPORATION NOTICE**

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania for a professional corporation known as:

ADVANCED FOOT CARE, P.C. under the provisions of the Business Corporation Law of 1988.

BLUMENSTOCK &  
BLUMENSTOCK, P.C.

Mar. 8

**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

REVOCABLE LIVING TRUST OF ANNA S. BRINK; Harold R. Brink, Successor Trustee

ANNA DEW A/K/A ANNIE DEW; Michael P. Dew, Jr., Mable M. Clark, Joan Fistler and Michele Williams, Administrators

FRED C. DAUGHERTY, SR.; Fred C. Daugherty, Jr., Executor

DONALD A. HARTZELL; Terry A. Hartzell, Executor

CHARLOTE DOROTHY KROENING A/K/A DOROTHY CHARLOTTE KROENING; Charles S. Smith, Esquire, Executor

THE NORTHAMPTON MEMORIAL ASSOC., INC., PERMANENT LOT CARE TRUST, DATED 01/23/2002; Ameriserv Trust and Financial Services Company, Formerly USBancorp Trust Co., Trustee

VELMA S. PRITCHARD A/K/A VELMA E. PRITCHARD; Jean A. D'Imperio and Judith L. Strouse, Co-Executrices

YOLANDA TRIGIANI; Josephine P. Ronca, David M. Trigiani, and Michael R. Trigiani, Executors

ROSALIE R. UNANGST; Michelle Frace, Executrix

**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, MARCH 30, 2007 AT 9:00 A.M. IN COURTROOM #1.

Dorothy L. Cole  
Clerk of Orphans' Court  
Mar. 8, 15

**IN THE COURT OF COMMON PLEAS OF NORTHAMPTON COUNTY**

**CIVIL DIVISION—LAW**

IN RE: CHANGE OF NAME OF SHERRY CUTHBERT

**FILE CASE NUMBER**

**C48/CV2006-875 1**

NOTICE IS HEREBY GIVEN that the Petition of Sherry Cuthbert was filed on October 30, 2006, praying for a decree to change her name from Sherry Cuthbert to her maiden name of Sherry Breidinger.

The Court has fixed April 2, 2007 at 9:00 a.m. in Motions Court,

Northampton County Government Center, 669 Washington Street, Easton, PA as the time and place for hearing of said Petition, when and where all persons interested may appear and show cause, if they have any, why the prayer of the Petitioner should not be granted.

NANCY GASPERAAROE,  
ESQUIRE

2568 Nazareth Road  
Easton, PA 18045

Mar. 8, 15

**COURT OF COMMON PLEAS OF  
LEHIGH COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION—LAW**

Petition for an exception under Taxpayer Relief Act §333(f)(2)(ii)  
In re: Request by the Catasauqua Area School District for Approval to Increase the Rate of Real Property Tax for the 2007-2008 Fiscal Year Over the Rate of the Tax for the 2006-2007 Fiscal Year by an Amount Greater than the Applicable Index Under the Taxpayer Relief Act to Pay for Cost to Implement a Court Order

**No. 2007-C-0711**

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that a hearing will be held before the Court of Common Pleas on March 16, 2007 at 9:30 o'clock a.m. in Courtroom 3B of the Lehigh County Courthouse, 455 West Hamilton Street, Allentown, Pennsylvania, to consider the Petition of the Catasauqua Area School District for Approval to Increase the Rate of Real Property Tax for the 2007-2008 Fiscal Year Over the Rate of the Tax for the 2006-2007 Fiscal Year by an Amount Greater than the Applicable Index (4.1%) Under the Taxpayer Relief Act (Special Session Act No. 1 of 2006) to Pay for Costs to Implement a Court Order. In par-

ticular, the Petition requests court approval for an exception under section 333(f)(2)(ii) of the Taxpayer Relief Act, 53 Pa. Stat. Ann. § 6926.333(f)(2)(ii), to pay for costs to implement a court order to make annual payments to the Lehigh-Northampton Airport Authority of \$156,480.72 beginning in the 2007-2008 fiscal year and continuing until the 2016-2017 fiscal year. The Petition requests determinations by the court that the dollar amount of the expenditure for which the exception is granted is \$156,480.72; the tax rate increase required to fund the exception is 0.49 mills in Lehigh County and 0.49 mills in Northampton County; and the appropriate duration of the increase is through the 2016-2017 fiscal year.

Any person who resides within or pays real property taxes to the Catasauqua Area School District may file with the Court written objections to the School District's Petition, and if such written objections are filed and served upon counsel for the School District, such person may appear in person or by counsel to offer testimony or other evidence, cross-examine the witnesses of the School District or other persons appearing at the hearing, and/or otherwise participate in the proceeding.

Robert J. Spengler,  
Superintendent  
Catasaquua Area School District  
Mar. 8

**NORTHAMPTON AREA  
SCHOOL DISTRICT**

Notice of Intent to Adopt  
Resolution to Eliminate  
Occupation Tax and increase  
Earned Income and  
Net Profits Tax (EIT)

NOTICE IS GIVEN that the Board of School Directors (the School

Board) of Northampton Area School District (the "School District") intends to adopt a new Earned Income and Net Profits Tax Resolution (Proposed Resolution) to eliminate the Occupation Tax and increase the rate of the EIT collected by the School District to 0.7% effective July 1, 2007. This notice is given pursuant to the Optional Occupation Tax Elimination Act of June 22, 2001, 53 P.S. §6927.1 et seq., as amended (the "Act") and the Local Tax Enabling Act of December 31, 1965, 53 P.S. §6901 et seq., as amended (the "Enabling Act"). The Proposed Resolution will be acted upon at a meeting of the School Board to be held on March 19, 2007, at 6:30 p.m., at the Northampton Area High School Auditorium, 1619 Laubach Ave., Northampton, PA. The full text of the Proposed Resolution is available for public inspection by any resident at the School District administrative offices at 2014 Laubach Ave., Northampton, PA weekdays between the hours of 9:00 a.m. and 3:00 p.m. The proposed new EIT Resolution may be amended before final adoption.

The School District currently levies and collects an Occupation Tax on the assessed value of all occupations of persons residing in the School District. The current Occupation Tax rate is 300 mills on the assessed value of all occupations of persons residing in the School District at any time during the school year. The School District also currently levies and collects from School District residents an EIT at the rate of 0.5%. The EIT applies to earned income received and net profits earned by residents of the School District. An additional 0.5% or 0.75% (depending upon where the taxpayer resides) is collected by the

municipality in which the taxpayer resides, meaning that School District residents currently pay a total EIT tax rate of 1% or 1.25%.

The Act permits the School District to seek voter approval to eliminate the occupation tax and replace the revenues lost from the elimination of the tax by increasing the rate of the EIT. The voters approved increasing the EIT and eliminating the Occupation Tax in a public referendum held on November 7, 2006. Pursuant to the Referendum approval by the voters, the School District intends to adopt the Proposed Resolution that eliminates the Occupation Tax and replaces the lost revenues from the elimination of the tax by increasing the rate of the EIT by 0.2%. Adding the increase rate of tax (0.2%) to the current rate of tax (0.5%) yields a new School District EIT rate of 0.7%. The total EIT paid by residents of the School District when combined with the EIT rate of the municipality in which they reside is equal to 1.2% or 1.45% depending upon in which municipality they reside.

The EIT is needed to produce revenue for general School District purposes. The estimated revenue to be derived by the School District from the new School District EIT for the 2007-08 fiscal year is \$6,076,611. The new increased EIT is levied on earned income received and net profits earned by residents of the School District. "Earned income" is defined as: "Compensation as determined under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as 'The Reform Code of 1971,' [herein called 'The Reform Code'] and regulations in 61 Pa. Code PT. I Subpt. B Art. V (relating to personal income tax) [herein called the 'Regulations'], not including, however, wages or compensation

paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of The Reform Code. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income." "Net profits" is defined as: "The net income from the operation of a business, profession, or other activity, except corporations, determined under Section 303 of [The Reform Code] and the [Regulations]. The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include..." certain interest earnings and gains as specified in the Enabling Act. The tax is collected for the School District by the Northampton Area Earned Income Tax Office (Tax Office). Every resident of the School District is required to file a tax return on or before April 15 of each year reporting net profits earned and earned income received during the prior year and on such date to pay the tax or balance thereof due. Certain employers are required to deduct the tax from earned income of employees subject to the tax and to file reports and remit taxes collected to the Tax Office. Under certain circumstances, taxpayers may be required to file quarterly estimated tax returns during each calendar year. The tax and requirements for taxpayers and employers are set forth in the Enabling Act, Tax Regulations adopted by the Northampton Area Earned Income Tax Office, and the Proposed Resolution. A copy of the Enabling Act and the Tax Regulations may be obtained from the Tax

Office at 2014 Laubach Ave., Northampton, PA.

Stacy M. Gober  
Secretary,  
Board of School Directors  
Mar. 1, 8, 15

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**NOTICE OF NAME CHANGE**

NOTICE IS HEREBY GIVEN that the Court of Common Pleas of Northampton County, PA at Docket No. C-48 CV 2007 001313 has ORDERED a hearing on the Petition for name change by Denise Rhodes to Glad Denise Rhodes. It is fixed for March 20, 2007 at 9:00, in Courtroom 4 in Easton, PA.

Mar. 8

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**SPACE AVAILABLE**

Space available within very short distance of new courthouse entrance. 720 Washington Street, Easton, PA, call (610) 258-2766.

Mar. 1, 8, 15, 22

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**IN THE COURT OF COMMON  
PLEAS OF LANCASTER COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT**

IN RE: ADOPTION OF OLIVIA  
TABITHA ZABOWER

**No. 2006-1964**

NOTICE OF INVOLUNTARY  
TERMINATION OF PARENTAL  
RIGHTS AND FOR ADOPTION  
TO: Clarence Williams

NOTICE IS HEREBY GIVEN that the law office of APPEL & YOST, LLP, has presented to the Orphans' Court Division, Court of Common Pleas of Lancaster County, PA, a Petition for Involuntary Termination of any Parental Rights you may have or might have concerning the child known as Olivia Tabitha Zabower (born 07/17/02) and Adoption Petition of Olivia Tabitha Zabower. The Court has set a hearing to consider ending your rights to your child and the adoption of your child. That hearing will be held on March 29,

2007, 9:15 a.m. in Courtroom No. 6, Third Floor, Lancaster County Courthouse, 50 North Duke Street, Lancaster, Pennsylvania. 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.

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Lancaster Bar Association  
28 East Orange Street  
Lancaster, PA 17602  
(717) 393-0737

ELAINE G. UGOLNIK  
APPEL & YOST, LLP  
33 N. Duke St.  
Lancaster, PA 17602

Mar 8

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Dennis M. McCarthy, Esq. at Davison & McCarthy, P.C.,  
2015 Hamilton Street, Suite 105, Allentown, PA 18104  
or fax/email to (610) 435-3089 or  
dmccarthy@davisonmccarthy.com.

Inquiries will be held in the strictest confidence.

Mar. 8, 15

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**NORTHAMPTON COUNTY REPORTER DIGEST—2007-3**  
RECENT DECISIONS OF THE COURTS OF COMMON PLEAS  
OF NORTHAMPTON COUNTY

**COMMONWEALTH OF PENNSYLVANIA v.**  
**ONE (1) PONTIAC FIREBIRD VIN 2G2F5225252203668**

*Petition for Forfeiture*

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, Misc. No. 2006-56.

Order of Court entered in favor of Claimant.

Sandra Foster McClure, Esquire for Commonwealth.

Leonard M. Mellon, Esquire for Claimant.

Order of Court entered on September 8, 2006 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Commonwealth filed a Petition for Forfeiture of the Pontiac Firebird after Claimant's son, Robert Morrison, used the vehicle in a drug transaction. Claimant, Jeffrey Morrison, asserted the innocent owner defense.

This Court found that Mr. Morrison met his burden of proving the innocent owner defense to avoid forfeiture of the Pontiac Firebird. The evidence at the hearing demonstrated that Jeffrey Morrison was the lawful owner of and retained control over the Pontiac Firebird, despite allowing his son to drive it. *See Shapley v. Commonwealth*, 150 Pa. Commonwealth Ct. 106, 110, 615 A.2d 827, 829 (1992). As the evidence demonstrated that Mr. Morrison was not aware of the illegal activity taking place within his vehicle, he was not under any obligation to take steps to prevent such activity. *See Commonwealth v. 648 West Mayfield Street*, 819 A.2d 1226, 1229 (Pa. Commw. 2003).

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**COMMONWEALTH OF PENNSYLVANIA v. TANE M. ACKLEY**

*Omnibus Motion—Motion To Quash*

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2006-1463.

Order of Court entered in favor of Commonwealth.

Abraham P. Kassis, Esquire for Commonwealth.

Ronald J. Karasek, Esquire for Defendant.

Order of Court entered on September 5, 2006 by F.P. Kimberly McFadden, Judge.

DESCRIPTION OF DECISION

Defendant filed a Motion to Quash, alleging that police lacked probable cause to stop her vehicle, a prima facie case was not made out at the time of the preliminary hearing, the charges were re-filed without proper authorization and the summary charge of Careless Driving exceeded the statute of limitations.

On October 30, 2005, Officer Hunsicker of the Bangor Police Department observed a red Dodge Stealth, driven by Defendant, Tane M. Ackley, hit a curb one time as it was traveling northbound on SR 191. Officer Hunsicker followed Defendant for approximately one-half mile and observed Defendant as she crossed the white fog line on the right side of the roadway two to three times over a distance of 400 feet. Officer

Hunsicker stopped Defendant's vehicle and upon approaching the vehicle, Officer Hunsicker smelled a strong odor of alcohol on Defendant's breath and observed that she had red, glassy, bloodshot eyes and slurred speech. Defendant failed field sobriety tests and was charged with Driving under the Influence of Alcohol and Careless Driving.

Based on the evidence, this Court concluded the stop of Defendant's vehicle was supported by reasonable suspicion as required by 75 Pa. C.S.A. §6308(b) and the evidence obtained from the stop should not be suppressed. The Commonwealth satisfied its burden of presenting a prima facie case to support the charges against Defendant of Driving under the Influence of Alcohol and Careless Driving. This Court also concluded that the criminal charges against Defendant were re-filed with approval by the attorney for the Commonwealth, in accordance with Pa. R.Crim.P. 544(A), and the charge of Careless Driving was timely and within the statute of limitations.

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**DEBORAH T. COLASANTO, PLAINTIFF v.  
CRAIG S. COLASANTO, DEFENDANT**

*Petition to Relocate—Custody—Minor Child—Gruber—Best Interests of the Child*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2003-6261.

Order of Court entered denying Defendant's Petition to Relocate.

Bruce A. Thomas, Esquire for Plaintiff.

Mark S. Refowich, Esquire for Defendant.

Order of Court entered September 6, 2006 by Robert A. Freedberg, President Judge.

**DESCRIPTION OF DECISION**

Defendant custodial-parent filed a petition to relocate to Colorado with the parties' two minor daughters. Defendant asserted that he and the children would benefit significantly from the move, as he was facing a potential unemployment. Defendant also averred that the move would benefit the children because they would be closer to his two brothers and their families. Plaintiff opposed relocation, asserting that the move would be detrimental to the relationship she has with the children.

The Court recognized that although the paramount concern in all custody matters is the protection of the child's best interests, relocation of a custodial parent presents the unique issue of respecting the custodial parent's autonomy while protecting the relationship between the child and the non-custodial parent. Using the factors articulated in *Gruber v. Gruber*, 400 Pa. Super. 174, 583 A.2d 434 (1990), the Court held that relocation to Colorado was not in the children's best interest because there were no realistic, substitute visitation arrangements that could be fashioned to protect the mother-child relationships. While Defendant advanced the idea of virtual visitation via the internet, the Court found that such an arrangement could not replace the girls' need for personal interaction with their mother. Thus, the petition for relocation was denied.

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**JILL M. YAFFEY AND LEROIR. YAFFEY, PLAINTIFFS v. ROBERT C.  
FAUSTNER AND EAST ALLEN TOWNSHIP, DEFENDANTS**

*Preliminary Objections—Demurrer—Governmental Immunity—Political Subdivision  
Tort Claims Act—Motor Vehicle Exception*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2006-5224.

Order of Court entered denying Defendant's Preliminary Objections to Plaintiff's Complaint.

John R. Vivian, Esquire for Plaintiffs.

John P. Gonzales, Esquire for Defendants.

Order of Court entered September 18, 2006 by Robert A. Freedberg, President Judge.

#### DESCRIPTION OF DECISION

Plaintiffs filed a complaint seeking damages resulting from an automobile accident with Defendant Faustner, an East Allen Township employee. Defendant Township filed preliminary objections in the nature of a demurrer, contending that Plaintiffs' claims of negligent entrustment and loss of consortium should be dismissed because of the governmental immunity provided in the Political Subdivision Tort Claims Act. Plaintiffs asserted that they were entitled to recover under the law because the Township's immunity was abrogated by the "Motor Vehicle Exception" to the Tort Claims Act.

The Court found that Plaintiffs had adequately averred that Defendant Faustner was operating the Township vehicle with permission from his employer, and as such, the motor vehicle exception to immunity applied. Thus, Defendant's preliminary objections were denied.

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#### **ERIC P. KNIES, PLAINTIFF v. LAUREN G. MURPHY, BRETT W. WEIMANN AND CHRISTOPHER J. RICHMOND, DEFENDANTS**

*Preliminary Objections—Demurrer—Breach of Contract—Counterclaim—Breach of Implied Warranty of Habitability—Intentional Infliction of Emotional Distress—Specificity*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2006-3939.

Order of Court entered denying Plaintiffs Preliminary Objections to Defendants' Counterclaim.

Tamer S. Armed, Esquire for Plaintiff.

Marla J. Melman, Esquire for Defendants.

Order of Court entered September 25, 2006 by Robert A. Freedberg, President Judge.

#### DESCRIPTION OF DECISION

Plaintiff filed a complaint, asserting breach of contract and ejectment arising out of a rental agreement between Plaintiff-landlord and three college students. Plaintiff averred that Defendants had breached their rental agreement by refusing to pay the monthly rental payments due under the lease. Defendants filed an answer and counterclaim, alleging breach of the implied warranty of habitability and intentional infliction of emotional distress. Defendants further averred that they were justified in refusing to pay the monthly lease payments because of sanitation problems with the rental property. Plaintiff filed preliminary objections in the nature of a demurrer, contending that Defendants' counterclaim was legally insufficient to support claims for breach of implied warranty of habitability and that a claim for intentional infliction of emotional distress was not recognized under Pennsylvania law. Plaintiff further alleged that Defendants' counterclaim lacked the required specificity under the law.

The Court denied Plaintiff's preliminary objections, holding that Defendants adequately averred that the defects in the rental property were of the kind and nature of those which prevented use of the premises as a habitable residence. The Court further

held that Defendants provided Plaintiff with the requisite notice of defective conditions within the rental property to meet their burden under the implied warranty of habitability counterclaim. The Court further held that Pennsylvania courts do recognize the tort of intentional infliction of emotional distress, and that Defendants had met their burden in pleading this cause of action.

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**JANET FRANKENFIELD, PLAINTIFF V. SAUCON VALLEY SCHOOL  
DISTRICT, DEFENDANT**

*Preliminary Objections—Demurrer—Public School Code §5-508, Affirmative Vote of School Board—Oral Contract—Breach of Contract—Essential Terms*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2005-9135.

Order of Court entered overruling in part and sustaining in part preliminary objections in the nature of a demurrer.

Donald P. Russo, Esquire for Plaintiff.

Ellen C. Schurdak, Esquire for Defendant.

Order of Court entered September 21, 2006 by Robert A. Freedberg, President Judge.

**DESCRIPTION OF DECISION**

Plaintiff filed a Complaint, alleging that the Defendant breached an employment contract entered into by the parties by failing to provide Plaintiff with a clerical position promised by the school board. Plaintiff claimed that the Defendant promised to reclassify her current position within the school district from that of “proctor” to a secretarial position. Plaintiff further alleged that despite the promise to move her position, the school board “posted” the job vacancy and ultimately hired another individual for the clerical position she believed she was going to fill.

Defendant filed preliminary objections in the nature of a demurrer, contending that Plaintiff’s breach of contract action should be dismissed because Plaintiff neither pleaded the alleged contract was approved by a majority vote of the school board, as required by the Public School Code, 24 P.S. §5-508, nor pleaded the essential terms of the alleged contract.

The Court overruled in part and sustained in part Defendant’s preliminary objections. The Court found that although Defendant characterized §5-508 as mandatory, the Pennsylvania Supreme Court held in *Mullen v. Bd. of Sch. Dirs. of the DuBois Area Sch. Dist.*, 436 Pa. 211, 216, 259 A.2d 877, 880 (1969), that the formal recorded vote provision was “directory only,” and that instances where “solid proof” of board approval could be presented, no formal vote was required. Viewing the evidence in the light most favorable to Plaintiff, the Court held that she made sufficient averments that the school board approved her reclassification as a clerical employee.

The Court held, however, that while Plaintiff alleged that an employment contract existed, she failed to include sufficient information regarding the essential terms of the agreement to permit recovery. No facts regarding the term of the contract, the salary, or obligations incurred by either party were pleaded.

**COMMONWEALTH OF PENNSYLVANIA v. JESSE CRUZ, DEFENDANT**

*Omnibus Pre-Trial Motion—Prima Facie Case—Constructive Possession—35 P.S. §780-113(a)(16), Unlawful Possession of a Controlled Substance—35 P.S. §780-113(32), Possession of Drug Paraphernalia—35 P.S. §780-113(a)(30), Unlawful Possession of a Controlled Substance*

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2006-2080.

Order of Court entered denying Defendant's omnibus pre-trial motion.

Michael J. Thompson, Esquire for the Commonwealth.

Nathan Bauer Schiesser, Esquire for Defendant.

Order of Court entered August 28, 2006 by Robert A. Freedberg, President Judge.

**DESCRIPTION OF DECISION**

The Commonwealth brought an action against Defendant for violation of 35 P.S. §780-113(a)(16), Unlawful Possession of a Controlled Substance, 35 P.S. §780-113(32), Possession of Drug Paraphernalia, and 35 P.S. §780-113(a)(30), Unlawful Possession of a Controlled Substance. Defendant filed a pre-trial motion asserting the Commonwealth's failure to meet its prima facie burden under §§780-113(a)(16), 780-113(a)(30), and 780-113(32). Defendant's pleading asserted that the Commonwealth failed to establish that he had either actual or constructive possession of the contraband and paraphernalia. On August 4, 2006, the Commonwealth offered the testimony of the arresting officer, Officer Moses Miller, as the record for disposition of the pretrial motion.

Officer Miller testified that he received a radio bulletin on June 9, 2006 informing him that there had been a shooting in Allentown and that a white vehicle believed to have been involved was coming to the Marvine-Pembroke area of Bethlehem. Shortly after midnight, Officer Miller observed a white Cadillac in the Marvine-Pembroke area, in which Defendant was a passenger. Upon approaching the vehicle, the officer observed six vials of a green leafy substance and a digital scale in the pocket attached to the rear of the front passenger seat. Testing later confirmed that these items contained marijuana. A search of the defendant revealed that he carried only a five dollar bill and an unusable cell phone, while the driver carried three partially smoked cigars containing marijuana and \$157.00 in small bills.

Upon reviewing the evidence, the Court held that because there was no evidence that any contraband or paraphernalia was found on Defendant, the Commonwealth had the burden of establishing constructive possession. The Commonwealth argued that it had met its burden by showing that Defendant had the power to control the contraband because of his close proximity to the items. The Court held, however, that while this evidence may establish that Defendant had the ability to control the contraband, the location and proximity alone were neither conclusive of guilt nor constructive possession. Moreover, the Court held that the evidence presented by the Commonwealth failed to show that Defendant acted as if he was in fear of being caught with the contraband or made movements that indicated his knowledge regarding the presence of the items within the vehicle.

**WILLIAM ELEK LIMITED, PLAINTIFF v. DOMENICO CENTOFANTI AND  
DEBORAH CENTOFANTI, DEFENDANTS**

*Summary Judgment—Breach of Contract—Unjust Enrichment—Oral Contract—Presumption that Benefit Conferred on One Spouse Benefits Other Spouse*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. 2005-2576.

Order of Court entered denying Defendant's Motion for Summary Judgment.

Leo V. DeVito, Jr., Esquire and Louis J. Mattioli, III, Esquire for Plaintiff.

Stuart T. Cottee, Esquire for Defendant.

Order of Court entered September 25, 2006 by Robert A. Freedberg, President Judge.

**DESCRIPTION OF DECISION**

Plaintiff filed a Complaint, including breach of oral contract and unjust enrichment claims, alleging that Defendants did not pay for plumbing services provided in January 2003. Plaintiff averred that he entered into an oral contract with Defendants for plumbing services to benefit Defendants' rental property in Bethlehem, Northampton County. Plaintiff pleaded that Defendants are husband and wife and that they jointly owned the rental property at the time the services were rendered.

Defendant filed a Motion for Summary Judgment contending that Plaintiff's breach of contract and unjust enrichment claims should be dismissed against him because he was not married to Defendant Deborah Centofanti at the time the contract was entered into. Defendant also denied being an owner of the rental property. Defendant offered an affidavit stating that he was not sharing a household with Deborah Centofanti at the time the plumbing contract was formed, as well as a July 2005 deed showing the transfer of the rental property from two individuals unrelated to this action.

The Court denied the Motion for Summary Judgment holding that there were genuine issues of material fact regarding the identity of the owner of the rental property in January 2003. The Court also found that there remained an issue as to the marital relationship between Defendants had been dissolved by divorce at the time of the formation of the service contract.

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**COMMONWEALTH OF PENNSYLVANIA v.  
CESAR GARCIA-BUENA, DEFENDANT**

*Omnibus Pre-Trial Motion—Prima Facie Case—Hit and Run Accident—75 Pa. C.S.A. §3743(a)—Identity of Driver—Inference Drawn from Statements*

In the Court of Common Pleas of Northampton County, Pennsylvania, Criminal Division, No. 2006-595.

Order of Court entered denying Defendant's omnibus pre-trial motion.

Roy A. Manwaring II, Esquire for the Commonwealth.

Edward J. Andres, Esquire for Defendant.

Order of Court entered October 4, 2006 by Robert A. Freedberg, President Judge.

**DESCRIPTION OF DECISION**

The Commonwealth brought an action for violation of 75 Pa. C.S.A. §3743(a), Accident Involving Damage to Attended Vehicle or Property, arising from a hit and run accident on January 19, 2006 involving Defendant's vehicle. On September 1, 2006, the Commonwealth presented evidence from the victim, Sergio Lopes, and investigat-

ing officer, Officer Patrick Maczko of the City of Bethlehem Police Department, as the record for disposition of the pre-trial motion.

Defendant filed an omnibus pre-trial motion asserting the Commonwealth's failure to meet its prima facie burden in charging Defendant with a violation of §3743(a). Defendant argued that the Commonwealth had not adequately established that he was the driver of the vehicle involved in the accident, and that the Court could not presume that he was driver simply by virtue of his ownership of the vehicle.

The Court denied Defendant's omnibus pre-trial motion holding that the Commonwealth met its prima facie burden under §3743(a) by establishing: (i) that the automobile was attended at the time it was struck by the passing Explorer; (ii) the automobile sustained damage that required more than \$500.00 in repairs; and (iii) the driver of the Explorer did not stop to render aid or exchange information at the scene of the accident. The Court also found that while Mr. Lopes could not identify the driver of the vehicle, Defendant made a series of statements to Mr. Lopes and Officer Maczko at the location where the vehicle was located, which gave rise to an inference that Defendant was the driver of the Explorer at the time of the accident. When combined, the statements were sufficient to show that Defendant had a consciousness of guilt leading to an inference of involvement in the accident.

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**METRO ELECTRICAL INSTALLATIONS COMPANY v. WILSON AREA SCHOOL DISTRICT AND LOBAR, INC., FEDERAL INSURANCE COMPANY, AND UNITED STATES FIDELITY & GUARANTY COMPANY**

*Preliminary Objections*

In the Court of Common Pleas of Northampton County, Pennsylvania, Civil Division—Law, No. C0048-CV-2004-009183.

Order of Court granting in part and denying in part Defendant's Preliminary Objections.

Andrew B. Cohn, Esquire and David L. Black, Esquire for Plaintiff.

Domenic P. Sbrocchi, Esquire and Thomas R. Davies, Esquire for Defendants.

Decision of Court entered February 13, 2006 by William F. Moran, Judge.

**DESCRIPTION OF DECISION**

Originally in this case, Plaintiff filed a Complaint against the Defendant for damages under a contract between the two parties. Here, Defendant filed Preliminary Objections to the Plaintiff's Counterclaim and Reply claiming that the Counterclaim failed to conform to the law and that it was insufficiently plead. The Plaintiff could not include as a pleading a "counter-counterclaim." Therefore, the Court struck the Defendant's Counterclaim. The Court also struck paragraph 87 and paragraphs 89-94 of the Reply because it was overly broad and failed to identify with any specificity what affirmative defense(s) the Defendant was raising to Plaintiff's Counterclaim. Paragraph 88 plead parol evidence specifically enough. Therefore, the Court denied the Motion to strike Paragraph 88.

# **NEW JERSEY LAW**

## **JAMES L. PFEIFFER, ESQ.**

**\* Former New Jersey Superior Court Judge \***

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