

Northampton County Reporter

(USPS 395-280)

VOL. LVI

EASTON, PA November 4, 2010

NO. 44

Michael Tarn, David Jones, Joseph Ali, Jesse Pickel and Victor Berkley, on behalf of themselves and others similarly situated, Plaintiffs v. Joseph Straub, Keith Oldt, Westen Fenner, Clarence Hein and Straub Enterprises, Inc., Defendants

CONTENTS

Audit—Orphan's Court.....	11	Lehigh County Law Clerk Position	12
Bar News	3	Notice of Amendment.....	11
Corporate Fictitious Name		Notice of Dissolution	10
Registration Notice	10	Notices of Nonprofit Incorporation.....	9
Estate Notices	4	Trust Notice	9

INSERT: Yellow: 1. "A Family with Two Countries"

2. 2010/2011 Calendar
3. Philadelphia Eagles vs. New York Giants
4. Miller Keystone Blood Center

Cream: 1. "Judicial Perspective on Hot Issues and New Cases"

2. "Chief Justice Roger B. Taney's Tenure as Supreme Court Justice and His Constitution Clashes with Abraham Lincoln"

3. Holiday Hope Chests
4. PA CLE Requirements

Green: 1. Philadelphia Flyers vs. New Jersey Devils

2. "Expert Discovery After the Barrick Decision"
3. Quarterly Association Meeting
4. "Thaddeus Stevens and the Radical Republican Effect on the Constitution Clause"

NOTICE TO THE BAR....

Kindly be advised that we are adding the following Custody Conference dates to the 2010 Calendar:

Monday, November 22, 2010

Tuesday, November 23, 2010

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

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Northampton County Reporter

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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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Editor

NOTICE TO NCBA MEMBERS – BAR NEWS

Quarterly Association Meeting – Thursday, November 11, 2010

Mark your calendars.

Program: “Beyond the Field of Play: High School Sports and Current Legal Issues”

Ceremonial Admissions to the Bar – Friday, December 3, 2010, 1:15 p.m.

This ceremony is for all new attorneys who would like to be admitted to the Northampton County Court of Common Pleas. Call the NCBA or Office of Court Administration for the forms. All applications must be submitted one week prior to the ceremony.

Eagles vs. Giants Game – Sunday, November 21, 2010

There are only 7 tickets left. If you are interested in attending the game call the NCBA office now.

Mediation Training CLE Program – Tuesday, November 16, 2010

The Monroe County Bar Association is offering a Mediation Training Program on November 16, 2010, at the Inn at Pocono Manor. This program will offer 6.5 CLE credits. Participants will learn the skills to effectively resolve conflicts through mediation. The training schedule includes lecture, small group exercises and role playing. The speakers are Michael D. McDowell, Esq., a full-time arbitrator and mediator based in Pittsburgh and Daniel J. McDowell, Esq., a wealth management attorney and mediator based in Pittsburgh. Cost: \$250 per person.

For more information contact the Monroe County Bar Association at 570-424-7288 or info2@monroebar.org.

Far and away the best prize that life offers is the chance to work hard at work worth doing. ~ Theodore Roosevelt

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**AMENDT, DOROTHY M. a/k/a DOROTHY MARIE AMENDT, dec'd.**

Late of 3487 Gun Club Road, Nazareth, Northampton County, PA

Executors: John R. Amendt and Debra Ann Feudale c/o Norman E. Blatt, Jr., Esquire, Scherline & Associates, 512 Walnut Street, Allentown, PA 18101

Attorneys: Norman E. Blatt, Jr., Esquire, Scherline & Associates, 512 Walnut Street, Allentown, PA 18101

COLAPIETRO, VINCENT, dec'd.

Late of the Borough of Wilson, Northampton County, PA

Executors: Mary Ann Vermilya and/or Vito Colapietro c/o Thomas L. Walters, Esquire, Lewis and Walters, 46 South Fourth Street, P.O. Box A, Easton, PA 18044-2099

Attorneys: Thomas L. Walters, Esquire, Lewis and Walters, 46 South Fourth Street, P.O. Box A, Easton, PA 18044-2099

D'AMBROSIO, E. PETER, dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executor: Peter R. D'Ambrosio, 1811 Ulster Street, Allentown, PA 18109

Attorney: Richard S. Luse, Esquire, 316 West Broad Street, Bethlehem, PA 18018

FLITER, ANASTASIA P., dec'd.

Late of Bethlehem, Northampton County, PA

Executor: Jack A. Fliter, Jr. c/o Nicholas E. Englesson, Esquire, 740 Main Street, Bethlehem, PA 18018

Attorney: Nicholas E. Englesson, Esquire, 740 Main Street, Bethlehem, PA 18018

GIOBBI, GALA R. a/k/a GALA GIOBBI, dec'd.

Late of Lower Mt. Bethel Township, Martins Creek, Northampton County, PA

Executors: Herbert V. Giobbi and Jane S. Bray c/o Joel M. Scheer, Esquire, Fishbone & Scheer, 940 W. Lafayette Street, Easton, PA 18042

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

HAMMEL, MARY A., dec'd.

Late of the Borough of Northampton, Northampton County, PA

Executor: Daniel Marakovits c/o Frank M. Skrapits, Esquire, Steckel and Stopp, 2152 Main Street, Northampton, PA 18067-1211

HOFFMAN, SHIRLEY I., dec'd.

Late of the Township of Palmer, Northampton County, PA

Executor: Gene A. Hoffman 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

KISNER, KATHLEEN M. a/k/a KATHLEEN MARIE KISNER, dec'd.

Late of Bethlehem, Northampton County, PA

Executrix: Mary Ann B. Sharpless, 1894 Mill Run Court, Hellertown, PA

Attorneys: Joanne Kelhart, Esquire, Shay, Santee & Kelhart, 44 E. Broad Street, P.O. Box 1005, Bethlehem, PA 18016-1005

LAWTON, FREDERICK W., dec'd.

Late of the City of Easton, Northampton County, PA

Executrix: Mary Ealer c/o Thomas L. Walters, Esquire, Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

Attorneys: Thomas L. Walters, Esquire, Lewis and Walters, 46 S. 4th Street, P.O. Box A, Easton, PA 18044-2099

LAZAR, MICHAEL R. a/k/a MICHAEL ROBERT LAZAR, dec'd.

Late of the Borough of Walnutport, Northampton County, PA

Administrator: Jeffery A. Lazar, 307 1/2 West Bertsch Street, Lansford, PA 18232

Attorney: William E. McDonald, Esquire, 113 West Ridge Street, P.O. Box 130, Lansford, PA 18232

LeVAN, LEAH MAE MANLEY a/k/a LEAH M. LeVAN, dec'd.

Late of Bethlehem Township, Northampton County, PA

Co-Executors: Gary Ray Le Van, 6013 Wendel Court, Slatington, PA 18080 and Janet Dawn

Charles, 3205 Cambridge Circle, Allentown, PA 18104

Attorneys: Christopher M. McLean, Esquire, Zator Law Offices, LLC, 4400 Walbert Avenue, Allentown, PA 18104

LIVIRRIE, ELDA M., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrix: Althea A. Livirrie c/o Judith A. Harris, Esquire, Tallman, Hudders & Sorrentino, PA Office of Norris, McLaughlin & Marcus, P.A., 1611 Pond Road, Suite 300, Allentown, PA 18104-2258

Attorneys: Judith A. Harris, Esquire, Tallman, Hudders & Sorrentino, PA Office of Norris, McLaughlin & Marcus, P.A., 1611 Pond Road, Suite 300, Allentown, PA 18104-2258

MASON, ALAN B., dec'd.

Late of Lower Saucon Township, Northampton County, PA

Administrator: Edmund O. Mason, Jr. c/o Bruce A. Nicholson, Esquire, 104 North York Road, Hatboro, PA 19040

Attorney: Bruce A. Nicholson, Esquire, 104 North York Road, Hatboro, PA 19040

RUGGIERO, MAMIE, dec'd.

Late of the Borough of Roseto, Northampton County, PA

Executrix: Kathleen A. Marinucci, 115 Roseto Avenue, Roseto, PA 18013

Attorneys: Ronold J. Karasek, Esquire, Martino, Karasek, Martino and Lopiano-Reilly, L.L.P., 641 Market Street, Bangor, PA 18013

SHAFER, WILLIAM F., dec'd.

Late of Bethlehem, Northampton County, PA

Executor: William F. Shafer, Jr.,
1126 Elm St., Bethlehem, PA
18017

Attorney: Eric R. Shimer, Es-
quire, 1 Bethlehem Plz., Ste. 830,
Bethlehem, PA 18018

STEELE, GERALD L., dec'd.

Late of Borough of Northampton,
Northampton County, PA

Executrix: Carol A. Steele c/o
Dean C. Berg, Esquire, 1820
Main Street, P.O. Box 10,
Northampton, PA 18067

Attorney: Dean C. Berg, Esquire,
1820 Main Street, P.O. Box 10,
Northampton, PA 18067

TEREK, MICHAEL E., dec'd.

Late of the Township of Bethle-
hem, Northampton County, PA
Executrix: Mary Ann Kinney,
4935 Harvey Road, Bethlehem,
PA 18020

TRIANTAFELOW, JULIA J., dec'd.

Late of Lower Saucon Township,
Northampton County, PA

Executor: John J. Zuk c/o Milan
D. Slak, Esquire, 5340 Prophets
Way, Allentown, PA 18106

Attorney: Milan D. Slak, Esquire,
5340 Prophets Way, Allentown,
PA 18106

SECOND PUBLICATION

CADEMARTORI, MARIANNE,
dec'd.

Late of the City of Easton,
Northampton County, PA

Executrix: Patricia Hrotko, 169
King Drive, Gillette, NJ 07933

FABER, PAUL, dec'd.

Late of the Township of Moore,
Northampton County, PA

Executor: Harald Faber c/o April
L. Cordts, Esquire, 391 Nazareth
Pike, Bethlehem, PA 18020

Attorney: April L. Cordts, Es-
quire, 391 Nazareth Pike, Beth-
lehem, PA 18020

HOFFMAN, RICHARD E., dec'd.

Late of Nazareth, Northampton
County, PA

Personal Representative: Samu-
el N. Wright 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

JANOSA, DAVID L., dec'd.

Late of the Borough of East Ban-
gor, Northampton County, PA

Executrix: Jean E. Janosa 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

KOPAS, GEORGE B., dec'd.

Late of the Township of Palmer,
Northampton County, PA

Administratrix C.T.A.: Rosann
M. Kopas, 3070 Hodle Avenue,
Easton, PA 18045

Attorneys: Charles Bruno, Es-
quire, Pfeiffer, Bruno, Minotti &
DeEsch, P.C., P.O. Box 468,
Easton, PA 18044-0468

KOVATCH, JAMES W., dec'd.

Late of Nazareth Borough,
Northampton County, PA

Executrices: Deborah M. Nagle
and Laure Jean Kovatch a/k/a
Laure J. Cortez c/o Robert H.

Jacobs, Esquire, 8 Centre
Square, Easton, PA 18042-3606
Attorney: Robert H. Jacobs, Es-
quire, 8 Centre Square, Easton,
PA 18042-3606

KRESSLER, JERRILYN C., dec'd.

Late of the Township of Forks,
Northampton County, PA

Co-Executors: Christine A. Kressler and Brian P. Kressler 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

PAULES, ERNEST a/k/a ERNEST C. PAULES, dec'd.

Late of Township of Lehigh, Northampton County, PA
 Executor: David Paules c/o Robert A. Stewart, Esquire, Lamm Rubenstone, LLC, 3600 Horizon Blvd., Suite 200, Trevose, PA 19053

Attorneys: Robert A. Stewart, Esquire, Lamm Rubenstone, LLC, 3600 Horizon Blvd., Suite 200, Trevose, PA 19053

SMOLENYAK, ANDREW, dec'd.

Late of the Township of Plainfield, Northampton County, PA
 Co-Executors: Drew Smolenyak, 1644 Alpine Drive, Pen Argyl, PA 18072 and Dale Smolenyak, 55 Portland Trailer Park Drive, Mt. Bethel, PA 18343

Attorneys: Charles Bruno, Esquire, Pfeiffer, Bruno, Minotti & DeEsch, P.C., P.O. Box 468, Easton, PA 18044-0468

WERNER, ETHEL H., dec'd.

Late of Plainfield Township, Northampton County, PA
 Executor: Sherwood D. Gum 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

YEISLEY, ANNE L., dec'd.

Late of the Borough of Nazareth, Northampton County, PA
 Executors: Barbara A. Shook, 11 Moor Drive, Easton, PA 18045 and Carol L. Grossman, 8 Second Avenue, Haddon Heights, NJ 08035

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

THIRD PUBLICATION

DEITER, MARY, dec'd.

Late of the Borough of North Catasauqua, Northampton County, PA

Executrices: Mary Ann Yenser and Kathryn Bogar 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

DETWELER, CHARLES H., dec'd.

Late of the Township of Bethlehem, Northampton County, PA

Co-Executrices: Eileen P. Detweiler and Constance E. Detweiler c/o Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18108

Attorneys: Littner, Deschler & Littner, 512 North New Street, Bethlehem, PA 18018

HAMPSEY, RACHEL Z., dec'd.

Late of the City of Bethlehem, Northampton County, PA

Executrices: Mary Berlin and Sue Anne Zapf a/k/a Sue Anne Golden c/o William P. Leeson, Esquire, Leeson, Leeson &

Leeson, 70 E. Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

Attorneys: William P. Leeson, Esquire, Leeson, Leeson & Leeson, 70 E. Broad Street, P.O. Box 1426, Bethlehem, PA 18016-1426

HAYCOCK, JOHN W., dec'd.

Late of Palmer Twp., Northampton County, PA
Administrator C.T.A.: Jeffrey R. Hoffmann, 101 Greenwood Ave., 5th Fl., Jenkintown, PA 19046
Attorneys: Jeffrey R. Hoffmann, Esquire, Friedman Schuman, P.C., 101 Greenwood Ave., 5th Fl., Jenkintown, PA 19046

KRESSLER, DORIS E., dec'd.

Late of the Borough of Bangor, Northampton County, PA
Executors: Arlene Miller, 4862 Miller Road, Bangor, PA 18013 and Dennis Fuls, 231 Washington Boulevard, Bangor, PA 18013
Attorneys: Alyssa Lopiano-Reilly, Esquire, Martino, Karasek, Martino and Lopiano-Reilly, L.L.P., 641 Market Street, Bangor, PA 18013

KRILL, JOHN, dec'd.

Late of Northampton, Northampton County, PA
Executor: Dennis John Krill, 644 Maple Drive, Cont. Crts., Bellfonte, PA 16823
Attorneys: David B. Shulman, Esquire, Shulman & Shabbick, 1935 Center Street, Northampton, PA 18067

LaBARRE, EARL, dec'd.

Late of the Borough of Bangor, Northampton County, PA
Executor: Rodney E. LaBarre, 2687 Lehigh Street, Slatington, PA 18080

Attorneys: Neil D. Ettinger, Esquire, Ettinger & Associates, LLC, Peachtree Office Plaza, 1815 Schadt Avenue, Whitehall, PA 18052

LEHMAN, DORIS J., dec'd.

Late of the Borough of Wilson, Northampton County, PA
Executor: Mr. Jeffrey W. Curnow c/o Robert C. Brown, Jr., Esquire, Fox, Oldt & Brown, 940 West Lafayette Street, Suite 100, Easton, PA 18042-1412
Attorneys: Robert C. Brown, Jr., Esquire, Fox, Oldt & Brown, 940 West Lafayette Street, Suite 100, Easton, PA 18042-1412

MAGOCHY, OLGA T., dec'd.

Late of Upper Nazareth Township, Northampton County, PA
Executrix: Susan A. Yorty, 4873 Circle Drive, Northampton, PA 18067
Attorney: Kristofer M. Metzger, Esquire, 42 N. Sixth Street, Allentown, PA 18101

MARAKOVITS, EDWARD L., JR., dec'd.

Late of the Township of East Allen, Northampton County, PA
Executor: Patricia Ann Hanna c/o Constantine M. Vasiliadis, Esquire, Kolb, Vasiliadis and Florenz, 74 W. Broad Street, Suite 170, Bethlehem, PA 18018-5738

Attorneys: Constantine M. Vasiliadis, Esquire, Kolb, Vasiliadis and Florenz, 74 W. Broad Street, Suite 170, Bethlehem, PA 18018-5738

MARTIN, EUGENE P., dec'd.

Late of Lower Saucon Township, Northampton County, PA

Executor: Bradford D. Wagner
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

RAAB, CHARLES H., dec'd.

Late of Walnutport, Northampton
County, PA

Executrix: Shirley Anne Raab,
4637 Beagle Drive, Walnutport,
PA 18088

Attorneys: Charles W. Stopp,
Esquire, Steckel and Stopp, 125
S. Walnut Street, Suite 210,
Slatington, PA 18080

RICCIO, LUIGI, dec'd.

Late of 311 OW Road, Bangor,
Northampton County, PA

Executrix: Anna Pepe c/o Connie
J. Merwine, Esquire, Merwine
Hanyon & Kaspszyk, LLP, Route
209 Merwine Commons,
Brodheadsville, PA 18322

Attorneys: Connie J. Merwine,
Esquire, Merwine Hanyon &
Kaspszyk, LLP, Route 209
Merwine Commons, Brod-
headsville, PA 18322

WERLEY, ANNETTE E., dec'd.

Late of Easton, Northampton
County, PA

Executor: John D. Werley c/o
Christopher R. Gray, Esquire,
Schantz & Gray, LLC, 2310
Walbert Avenue, Allentown, PA
18104

Attorneys: Christopher R. Gray,
Esquire, Schantz & Gray, LLC,
2310 Walbert Avenue, Allentown,
PA 18104

ZELEZEN, MARGARET F., dec'd.

Late of Bethlehem, Northampton
County, PA

Executors: Edward D. Zelezen
and Ronald F. Zelezen c/o John
W. Rybak, Esquire, 408 Adams
Street, Bethlehem, PA 18105

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

TRUST NOTICE

NOTICE IS HEREBY GIVEN of the
existence of the trusts of the deceased
settlers set forth below for whom no
personal representatives have been
appointed within 90 days of death.
All persons having claims or demands
against said trusts are requested to
make known the same, and all per-
sons indebted to said trusts are re-
quested to make payment, without
delay, to the trustees or to their at-
torneys named below.

**ZEBROWSKI, RICHARD ED-
MUND**, dec'd.

Late of the Borough of Heller-
town, Northampton County, PA
The Richard Edmund Zebrowski
Trust dated July 25, 2005. Rich-
ard Edmund Zebrowski, settlor
of the trust.

Executor: Eric Zebrowski
Attorney: Brett B. Weinstein,
Esquire, 705 W. DeKalb Pike,
King of Prussia, PA 19406

Nov. 4, 11, 18

**NOTICES OF NONPROFIT
INCORPORATION**

NOTICE IS HEREBY GIVEN that
Articles of Incorporation were filed
with the Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, Pennsylvania on October
12, 2010, for the purpose of incorpo-
rating a nonprofit corporation pursu-
ant to the provisions of the Nonprofit
Corporation Law of 1988, approved
December 21, 1988, P.L. 1444, No.
177, as amended.

The corporation is incorporated exclusively for tax-exempt purposes within the meaning of Section 501(c) (3) of the Internal Revenue Code of 1986, or corresponding provisions of any future United States Internal Revenue Law, specifically fund-raising for support of medical research.

The name of the corporation is:

BANGOR COMMUNITY PARTNERSHIP, INC.

David J. Ceraul, Esquire
22 Market Street
Bangor, PA 18013

Nov. 4

NOTICE IS HEREBY GIVEN that Articles of Incorporation—Nonprofit have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purposes 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:

CENT'ANNI OF ROSETO 2012, INC.

The Articles of Incorporation were filed on September 23, 2010.

ANTHONY J. MARTINO, ESQUIRE
641 Market Street
Bangor, PA 18013

Nov. 4

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on February 11, 2008, with a proposed non-profit corporation formed pursuant to 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:

CULTURAL AND ARTS COMMISSION, LTD.

Alfred S. Pierce, Esquire
Pierce & Dally, LLC
124 Belvidere Street
Nazareth, PA 18064

Nov. 4

CORPORATE FICTITIOUS NAME REGISTRATION NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of the Act of Assembly No. 295 of 1982, approved December 16, 1992, of the intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania a Certificate to conduct business under the assumed or fictitious name, style or designation of:

WELLER HEALTH EDUCATION CENTER

with its principal place of business at: 325 Northampton Street, Easton, PA 18042.

The name and address of the entity interested in the said business is: The Carl and Emily Weller Center for Health Education, 325 Northampton Street, Easton, PA 18042. The application was filed on September 23, 2010.

THERESA HOGAN, ESQUIRE
Attorney-at-Law

340 Spring Garden Street
Easton, PA 18042

Nov. 4

NOTICE OF DISSOLUTION

NOTICE IS HEREBY GIVEN by **Nationwide Realty Group, Inc.**, a Pennsylvania business corporation, of 25 Aberdeen Drive, Easton, PA 18045, that said corporation is winding up its affairs in the manner prescribed by the Business Corporation Law of 1988, so that its corporate existence shall cease upon the filing of Articles of Dissolution in the De-

partment of State of the Commonwealth of Pennsylvania.

TIMOTHY B. FISHER, ESQUIRE
FISHER & FISHER
LAW OFFICES LLC
525 Main Street
P.O. Box 396
Gouldsboro, PA 18424
(570) 842-2753

Nov. 4

NOTICE OF AMENDMENT

NOTICE IS HEREBY GIVEN that Articles of Amendment to the Articles of Incorporation of: **Nancy Run Fire Company of Butztown**, a non-profit corporation, with its registered office located at: 3564 Easton Avenue, Bethlehem, PA 18020, have been filed under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, approved December 21, 1988 (P.L. 1444, No. 177), as amended.

The nature and character of the amendment is to amend the purpose clause of the corporation so as to qualify as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954 or corresponding provisions of any subsequent federal tax law.

The Articles of Amendment were filed on October 20, 2010, with the Department of State.

ROBERT L. WHITE, ESQUIRE
29 Flanders Drive
Drums, PA 18222

Nov. 4

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
PAUL S. DECH; Paul H. Deck, James H. Dech, John H. Dech, and Ralph H. Dech, Executors

MEDA K. McGRATH a/k/a MEDA McGRATH; Sherwood R. McGrath and George E. McGrath, Co-Executors

HAROLD NERINO; Carolee Sportelli, Administratrix

DOROTHY H. ROUND; Kenneth D. Round, Executor

SANDRA E. TORRES-MALTESE; Andre Bocher, Executor

SANDRA E. TORRES-MALTESE, Trust; Eblyn Cordero, Successor Trustee

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: WEDNESDAY, NOVEMBER 24, 2010 AT 9:00 A.M. IN COURTROOM #1

Dorothy L. Cole
Clerk of the Orphans' Court
Nov. 4, 11

**Lehigh County Law Clerk Position to the
Honorable Robert L. Steinberg**

- Salary:** \$54,808 per year (2010 pay scale)
Hours: Monday through Friday, 8:30-4:30
Location: Lehigh County Courthouse
455 W. Hamilton Street, Courtroom 4-A
Allentown, PA 18101
Start date: January 2011
Submit: Cover letter, resume, and three refer-
ences. If called for an interview, bring
writing samples.

Qualifications: This position is available for **graduate** applicants and is contingent upon taking and passing the Pennsylvania Bar Exam during their term as law clerk.

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All Submissions should be sent directly to: The Honorable Robert L. Steinberg, Lehigh County Courthouse, Chambers 4-A, 455 West Hamilton St., Allentown, PA 18101

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**MICHAEL TARN, DAVID JONES, JOSEPH ALI, JESSE PICKEL
and VICTOR BERKLEY, on behalf of themselves and others
similarly situated, Plaintiffs v. JOSEPH STRAUB,
KEITH OLDT, WESTEN FENNER, CLARENCE HEIN
and STRAUB ENTERPRISES, INC., Defendants**

Right To Jury Trial—Punitive Damages—Compensatory Damages.

The Court granted Plaintiffs' Motion for a Jury Trial on the issue of damages in this class action dispute between car dealership employers and employees. Plaintiffs' suit is based on allegations that the Defendants surreptitiously altered internal accounting records to reflect acquisition costs for used car inventory that were much higher than the dealership actually paid for such inventory, thereby reducing the gross profit-based commissions paid to the dealership's employees. Plaintiffs brought claims for breach of contract, conversion, deceit and concealment, civil conspiracy, and non-disclosure.

The trial was bifurcated and a jury trial on liability was held. In that trial, Defendants Joseph Straub, Keith Oldt and Straub Enterprises, Inc. were found liable for damages, including punitive damages and then the jury was released. Plaintiffs filed this Motion to have a jury determine the issue of damages. As for punitive damages, there is no right to a jury trial. Additionally, the Court held that Plaintiffs did not waive the right to a jury trial on compensatory damages, however, Pennsylvania law does not require that the same jury be used for liability and damages. The matter was directed to the next available civil trial list.

In the Court of Common Pleas of Northampton County, Pennsylvania,
Civil Division—Law, No. CO48CV2005009482.

VINCENT A. COPPOLA, ESQUIRE, for the Plaintiffs.

RICHARD H. PEPPER, ESQUIRE, for the Defendants.

Order of the Court entered on June 24, 2010 by BARATTA, J.

ORDER

And now this 24th day of June, 2010, Plaintiffs' motion for a Jury Trial on this issue of damages is GRANTED. This matter shall be scheduled for the September 20, 2010 Civil Jury Trial List.

STATEMENT OF REASONS

Procedural History

This action involves a class action brought by five members of the used car sales force for the automobile dealership known as Straub Enterprises, Inc. Joseph Straub and Keith Oldt are the principals/shareholders of the automobile dealership. The genesis of the action is that the dealership, through its principals, engaged in systemic fraud as it related to calculating sales commissions for the entire sales force employed as of January 1, 2000.

At a pretrial status conference, we bifurcated the trial on issues of liability and damages. We required the issue of liability on the claims of Breach of Contract, Conversion, Civil Conspiracy and Punitive Damages

be determined first by the jury. If liability was found in favor of the Plaintiffs, then we intended to immediately move into the damage presentation, which required detailed and onerous calculations related to every single used car sale over the time period in question in order to award lost/denied commissions. Our reasoning in favor of bifurcation also included that the record that would need to be made in order to properly calculate punitive damages would likely require the jury to not only consider the extent of the breach/fraud, but also the wealth of both the corporate and individual Defendants, which information was wholly irrelevant and arguably prejudicial to the Defendants as it related to liability. We thought it would be prudent to first establish liability before requiring the jury to sift through the detailed evidentiary record for establishing damages.

On March 1, 2010, prior to commencement of the trial, Plaintiffs' counsel informed us that he was not prepared to address the issue of damages. Counsel was not prepared to present evidence related to calculating of damages for either the individual Plaintiffs or for the entire class. Apparently, Plaintiffs' counsel assumed that the issue of damages and liability would be tried at different times. We had a brief pretrial discussion with counsel, during which Plaintiffs' counsel suggested that perhaps, if liability was found, that damages could be referred to a master. We were informed that Plaintiffs' counsel was intent on proceeding on liability. We permitted counsel to pick a jury to try the issue of liability, reserving the issue of damages for another day.

The jury returned a verdict against Straub Enterprises, Inc., Joseph Straub and Keith Oldt with regard to Breach of Contract, Conversion, Civil Conspiracy and Punitive Damages. We then dismissed the jury.

Thereafter, we scheduled a status conference to discuss the open issue of damages. At that status conference, Plaintiffs' counsel announced that it would require some time to prepare his damage presentation. Both parties indicated that they would likely be able to agree to the commission formula for calculating damages. However, Plaintiffs' counsel announced that his clients were continuing their demand for a jury trial as to issues of both compensatory and punitive damages. Counsel argued that his clients had a constitutional right to a jury trial on both types of damages. Further, counsel demanded that the same jury, impaneled on March 1, 2010, return many months later to hear the case on damages.

A tentative non-jury trial date was set for July 26, 2010, for the presentation of damages before the undersigned. However, because Plaintiffs' counsel insisted that his clients had a constitutional right to a jury trial on damages, we thought it prudent to require the parties to submit briefs before rendering our final decision.

We received Defendants' brief on or about April 5, 2010 and Plaintiffs' brief on or about May 14, 2010.

Discussion

We now very much regret our decision to accommodate Plaintiffs' counsel, who was not prepared to address damages on the March 1, 2010 trial date.

Initially, for several reasons, we were inclined to deny Plaintiffs' demand for a jury trial for damages. First, we debated that although Plaintiffs have a constitutional right to a jury trial, Plaintiffs may be deemed to have waived that right, since they were unprepared to present their damage claim at the March 1, 2010 jury trial. In addition, we noted that Plaintiffs' counsel suggested in a pretrial conference that a master could be appointed to determine compensatory damages. Second, to properly calculate compensatory damages, the parties agree that a commission formula must be applied to each used car sale. Such a process requires the application of the mathematical aptitude of a seasoned accountant as opposed to a discretionary decision which requires the collective wisdom of lay jurors. The court felt that it (or, as Plaintiffs' Counsel suggested, a court-appointed master) is in a much better position to calculate damages rather than subject a jury to days of onerous accounting work. Finally, having had some knowledge of Pennsylvania law, we believed that there existed case law which provided that there was no right to a jury trial for punitive damages.

Our research indicates that a party may waive his constitutional right to a jury trial in civil matters; however, the waiver must be knowing and voluntary or the result of a failure to comply with law or the Pennsylvania Rules of Civil Procedure. *See Gilmer v. Philadelphia Transportation Co.*, 237 Pa. Super. 57, 346 A.2d 346 (1975). Although, we are inclined to rule that Plaintiffs have waived their right to a jury trial on the issue of compensatory damages based upon their failure to be prepared to submit damages to the impanel jury, we will not do so, as we can find no case law that is squarely on point.

In their brief, Plaintiffs also take issue with our decision to bifurcate the trial regarding liability and damages. The "complaint" raised in their brief related to our decision to bifurcate this trial is far too late. When pre-trial discussions of bifurcation arose, there was no objection made by the Plaintiffs. In fact, Plaintiffs appeared on March 1, 2010 only prepared to present their case on liability. The objection to bifurcation has long since been waived.

Further, we note that our Appellate Courts have not hesitated to find that the determination of damages may be a distinct and separable issue, or stated otherwise, the determination of liability may be made by one jury and damages may be determined by another jury without violating the 7th Amendment right to a jury trial. The right to a unitary jury trial is not absolute. *Gasoline Prods. Co. v. Champlin Refining Co.*, 283 U.S. 494, 500

(1931). Severance of distinct issues for separate trials before separate juries is constitutional. *Id.*

The considerations of judicial economy and orderly presentation of evidence provide ample justification for a trial court to bifurcate the issues of liability and damages. *Sacco v. City of Scranton*, 115 Pa. Commonwealth Ct. 512, 517, 540 A.2d 1370, 1372 (1988). The court may order bifurcation of trial issues in furtherance of convenience or to avoid prejudice. *Ptak v. Masontown Men's Softball League*, 414 Pa. Super. 425, 429, 607 A.2d 297, 299-300 (1992). However, in determining whether to bifurcate a trial, the trial judge should be alert to the danger that evidence relevant to both issues may be offered at only one-half of the trial. This hazard necessitates the determination that the issues of liability and damages are totally independent prior to bifurcation. *Stevenson v. General Motors Corp.*, 513 Pa. 411, 422, 521 A.2d 413, 419 (1987).

Further, our Appellate Courts have also recognized the utility of bifurcating complex civil cases regarding the issues of liability and damages before separate juries. See *Andaloro v. Armstrong World Industries Inc.*, 799 A.2d 71 (Pa. Super. 2002); *Lonasco v. A-Best Products Co.*, 757 A.2d 367 (Pa. Super. 2000); *Wertz v. Kephart*, 374 Pa. Super. 274, 542 A.2d 1019 (1988).

The case cited by the Plaintiffs in support of their position, *Stevenson v. General Motors Corp.*, actually held that bifurcation of liability and damages can be a necessary tool of a trial court. The *Stevenson* court held that when deciding whether to bifurcate a trial, the court must determine that issues of liability and damages are totally independent. *Stevenson*, supra at 422, 521 A.2d at 419. Here, Plaintiffs have failed to elaborate on how the “qualifications for bifurcation did not exist in this matter.” Their reference to the *Stevenson* case was unhelpful.

The only issue before this Court is whether there exists a right to a jury trial solely on the issue of damages.

Article I, Section 6 of the Pennsylvania Constitution has been interpreted as preserving the right to trial by jury only in those cases where it existed at the time the Constitution was adopted in 1790. *Vertis Group, Inc. v. Pennsylvania Public Utility Commission*, 840 A.2d 390, 398 (Pa. Commw. 2003). Jury trials are not available in proceedings created by statute unless the proceeding has a common-law basis or unless the statute expressly or impliedly so provides. *Id.*

“A three-part test has evolved to determine whether a party is entitled to a jury trial. *Id.*; *W.J. Dillner Transfer Company v. Pennsylvania Public Utility Commission [sic]*, 191 Pa. Super. 136, 155 A.2d 429 (1959); *Wertz v. Chapman Township*, 559 Pa. 630, 741 A.2d 1272 (1999). First, the court looks to see if there is a statutory requirement for a jury trial in the case.” *Id.* “Second, the court inquires as to whether, with respect to the proceedings before the court at the time, jury trials were required in 1790.” *Id.*

“Finally, if jury trials were required, the court inquires as to whether there was a common law basis for the proceeding.” *Id.* The term “common law basis” does not, in the context of this case, mean that the action originated at common law. Rather, “common law basis” refers to the nature of the proceeding in common-law courts such as the Court of Exchequer, but not courts of Admiralty or Chancery. *Commonwealth v. One (1) 1984 Z-28 Camaro Coupe*, 530 Pa. 523, 528-29, 610 A.2d 36, 39 (1992) (owner of property subject to forfeiture under Controlled Substances Forfeiture Act, is entitled to jury trial under Pennsylvania Constitution). Historically, class actions were not permitted at common law. The class action device had its origin in equity and class actions in Pennsylvania are presently governed by Pa. R.C.P. 2230. Rule 2230 adopts the practice under former Pennsylvania Equity Rule 16 (1924) and under F.R.C.P. No. 23. *Felger v. First Federal S. & L. Association of New Castle*, 3 D. & C. 3d 70 (1975). Rule 2230 was first adopted on June 7, 1940. Pa. R.C.P. No. 2230. Class actions are now governed by Pa. R.C.P. No. 1701, *et seq.*

The class action in Pennsylvania is a procedural device designed to promote efficiency and fairness in the handling of a complex cause of action involving large numbers of similar claims. *Lilian v. Commonwealth*, 467 Pa. 15, 21, 354 A.2d 250, 253 (1976). Class actions are a procedural matter, not a substantive one. *Smolow v. Commonwealth*, 131 Pa. Commonwealth Ct. 276, 296 n.7, 570 A.2d 112, 122 n.7 (1990). Therefore, a constitutional right to a jury trial in class actions exists for those underlying claims that enjoyed the right to a jury trial at the time the Constitution was adopted. See *Pennsylvania Public Utility Commission v. W.J. Dillner Transfer Co.*, 191 Pa. Super. 136, 150, 155 A.2d 429, 435 (1959). The causes of action for breach of contract and fraud implicate the right to a jury trial.

With regard to the right to a jury trial for punitive damage claims, our Supreme Court addressed the issue in *Mishoe v. Erie Insurance Co.*, 573 Pa. 267, 824 A.2d 1153 (2003). In *Mishoe*, at issue was whether there is a right to a jury in a cause of action which arises out of 42 Pa. C.S.A. §8371, a statute providing for punitive damages in actions on insurance policies. This statute states that: “... the court may take all the following actions: ... (2) Award punitive damages against the insurer.” *Id.*, 824 A.2d at 1155. The statute did not provide plaintiffs with a trial by jury. Therefore, the issue addressed by the *Mishoe* court was whether the availability of punitive damages afforded the plaintiffs a trial by jury.

In *Mishoe*, the court held that punitive damages are not automatically accompanied by the right to a jury trial. The *Mishoe* court reasoned that because the right to a jury for determining damages is not afforded to the cause of action by way the statute, the only other avenue for plaintiffs would be via Article 6, Section I of the Pennsylvania Constitution. Therefore, the ultimate issue was whether there exists a right to a jury in the common law for punitive damages. The *Mishoe* court held that there is no

common-law right to a jury trial for punitive damages. *Mishoe*, supra, 824 A.2d at 1159.

Plaintiff takes issue with the *Mishoe* holding and argues that the United States Supreme Court in *Exxon Shipping Co. v. Baker*, 128 S.Ct. 2605 (2008), establishes Plaintiffs' constitutional right to a jury trial because *Exxon* found that the right to a jury trial for punitive damages existed at common law. In fact, Plaintiffs have liberally quoted from Justice Souter's opinion in support of their position. We disagree with the Plaintiffs' interpretation of *Exxon*.

Exxon involved the oil spill resulting from the grounding of the Exxon Valdez, a supertanker used for transporting oil. The grounding of the Valdez resulted in dumping of millions of gallons of oil upon the shoreline of Alaska. It was the largest oil industry maritime environmental disaster in the United States, until the most recent BP oil rig disaster in the Gulf of Mexico. Plaintiff has referenced quotes from the opinion authored by Justice Souter. However, Justice Souter did not speak for the entire Court. Our review of *Exxon* indicates that the Supreme Court *did not* render an opinion on the right to a jury trial for punitive damages. In fact, there were two primary issues before the Court in the *Exxon* case. With regard to the first issue, the Supreme Court was equally divided (four to four) as to whether or not Maritime Law allows corporate liability for punitive damages based upon the acts of its managerial agents. As a result, the Supreme Court decision in *Exxon* left the Ninth Circuit's Opinion undisturbed. Therefore, the opinion of the Supreme Court is, in fact, non-precedential on the issue that was before it with regard to corporate liability for punitive damages. With regard to a second issue before the Court in *Exxon*, the Supreme Court did agree that the water pollution penalties within the Clean Water Act did not preempt punitive damage awards in maritime oil spill cases. In our opinion, *Exxon* did not overrule the Pennsylvania Supreme Court in *Mishoe v. Erie Insurance Co.*

Although we find much of the argument advanced by Plaintiffs to be unpersuasive, we are unwilling to find a waiver of Plaintiffs' right to a jury trial on compensatory damages.

We are prepared to give Plaintiffs their jury trial on damages. However, Pennsylvania law is clear, that there is no requirement that the same jury be used for liability and damages. We will not impose upon the jurors who have been discharged after the March 2010 trial, by requiring that they return nearly one-half year later to determine damages.

We will direct this matter to the next available civil jury trial list scheduled for September 20, 2010, to try damages before a second jury.



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