

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : Nos. 2310 and 2377 Disciplinary Docket  
: No. 3  
Petitioner :  
: No. 167 DB 2016  
v. :  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
: (Luzerne County)  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 18<sup>th</sup> day of August, 2017, upon consideration of the Verified Statement of Resignation, Elizabeth Jennifer Bartolai is disbarred on consent from the Bar of the Commonwealth of Pennsylvania, see Pa. R.D.E. 215, and she shall comply with the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 8/18/2017

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

Julia Frankston-Morris, Esq.  
Secretary of the Board



Facsimile (717) 231-3381  
[www.padboard.org](http://www.padboard.org)

THE DISCIPLINARY BOARD  
OF THE  
SUPREME COURT OF PENNSYLVANIA

Prothonotary  
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Pennsylvania Judicial Center  
601 Commonwealth Avenue, Suite 5600  
PO Box 62625  
Harrisburg, PA 17106-2625  
(717) 231-3380

July 28, 2017

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RE: Office of Disciplinary Counsel  
v. ELIZABETH JENNIFER BARTOLAI  
No. 2310 AND 2377 Disciplinary Docket No. 3  
No. 167 DB 2016  
Attorney Registration No. 62355  
(Luzerne County)

Attention: John A. Vaskov, Esq., Deputy Prothonotary

Pursuant to Rule 215(b) of the Pennsylvania Rules of Disciplinary Enforcement, enclosed herewith is the original verified statement of Elizabeth Jennifer Bartolai, Respondent in the above proceeding, stating that she desires to resign. **An electronic copy of this filing is also being sent.**

By Order of the Supreme Court dated November 23, 2016, Ms. Bartolai was placed on temporary suspension pursuant to Rule 208(f)(1), Pa.R.D.E. at docket No. 2310 Disciplinary Docket No. 3.

In accordance with Rule 215(c)(5), because this verified statement was submitted after she was placed on temporary suspension, the resignation statement is not confidential.

The mailing address of Ms. Bartolai is: Jewelcor Center, Suite 212, 100 North Wilkes-Barre Boulevard, Wilkes-Barre, PA 18702. She is not represented in this proceeding.

Respectfully yours,

Handwritten signature of Marcee D. Sloan in black ink.

Marcee D. Sloan  
Board Prothonotary

MDS/  
Enclosures

cc: Elizabeth J. Bartolai, Respondent  
Paul J. Killion, Chief Disciplinary Counsel  
Kristin A. Wells, Disciplinary Counsel

THE DISCIPLINARY BOARD  
OF THE  
SUPREME COURT OF PENNSYLVANIA

Paul J. Killon  
Chief Disciplinary Counsel

Paul J. Burgoyne  
Deputy Chief Disciplinary Counsel

District III Office  
PA Judicial Center  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106  
(717) 772-8572  
FAX (717) 772-7463



Disciplinary Counsel-in-Charge  
Ramona M. Mariani

Disciplinary Counsel  
Anthony A. Czuchnicki  
Suzy S. Moore  
Kristin A. Wells

OFFICE OF DISCIPLINARY COUNSEL  
[www.padisciplinaryboard.org](http://www.padisciplinaryboard.org)

July 27, 2017

John A. Vaskov, Esq.  
Deputy Prothonotary  
Supreme Court of Pennsylvania  
Western District Office  
801 City-County Building  
Pittsburgh, PA 15219

RECEIVED  
7/27/2017  
PA Disciplinary Board  
Office of the Secretary

Re: Office of Disciplinary Counsel  
v. Elizabeth Bartolai  
Nos. 2310 and 2377 Disciplinary Docket No. 3  
167 DB 2016  
Attorney Registration No. 62355

Dear Mr. Vaskov:

Enclosed please find an original and two (2) copies of Petitioner's Resignation Statement under Rule 215, Pa.R.D.E. in the above-referenced matter. Petitioner has made two hand-written notations to the Resignation Statement. However, those notations do not affect Respondent's admission that her resignation is knowing and voluntary, her understanding that the submission is irrevocable, and her agreement to comply with Enforcement Rule 217. In light of these facts, as well as the fact that no additional discipline could be imposed through a disciplinary hearing, this Office requests that the Court accept the Resignation Statement and enter an Order disbaring Respondent from the practice of law in this Commonwealth.

Thank you in advance for your consideration.

Respectfully,

A handwritten signature in black ink that reads "Kristin A. Wells".

Kristin A. Wells  
Disciplinary Counsel  
District III

John A. Vaskov, Esq.  
July 27, 2017  
Page 2

KAW  
Enclosure

cc: Paul J. Killion, Chief Disciplinary counsel  
Paul J. Burgoyne, Deputy Chief Disciplinary Counsel  
Julia M. Frankston-Morris, Secretary of the Disciplinary Board  
Elizabeth J. Bartolai, Respondent

**BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 2310 & 2377 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 167 DB 2016
v.	:	
	:	Attorney Registration No. 62355
ELIZABETH JENNIFER BARTOLAI	:	
Respondent	:	(Luzerne County)

**RESIGNATION BY RESPONDENT**

Pursuant to Rule 215  
of the Pennsylvania Rules of Disciplinary Enforcement

Re: Office of Disciplinary Counsel  
v. ELIZABETH JENNIFER BARTOLAI  
No. 2310 & 2377 Disciplinary Docket No. 3  
No. 167 DB 2016  
Attorney Registration No. 62355  
(Luzerne County)

**RECORD OF PRIOR DISCIPLINE**

Informal Admonition – Administered May 27, 2015

Administered for violations of RPC 8.4(b), Pa.R.D.E. 203(b)(1) and 214(a). Respondent pled guilty to Possession of Marijuana, 35 Pa.C.S.A. §780-113(a)(31) and Possession of Drug Paraphernalia, 35 Pa.C.S.A. §780-113(a)(32) and failed to report conviction to Office of Disciplinary Counsel within 20 days as required by Pa.R.D.E. 214(a).

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel : No. <sup>2310</sup>~~2317~~ Disciplinary Docket No. 3  
Petitioner :  
 :  
 : No. 1197 DB 2016  
 :  
 v. : File Nos. C3-16-334, 340, 599, 661, 662,  
 : 851, and 852  
 :  
 : Attorney Registration No. 62355  
 Elizabeth Jennifer Bartolai, :  
 Respondent : (Luzerne County)

**RESIGNATION STATEMENT UNDER RULE 215, PA. R.D.E.**

I, Elizabeth Jennifer Bartolai, hereby resign from the practice of law in the Commonwealth of Pennsylvania in conformity with Rule 215 of the Pennsylvania Rules of Disciplinary Enforcement, and further state as follows:

1. I am an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on November 26, 1991. My registration number is 62355.
2. I desire to resign from the Bar of the Commonwealth of Pennsylvania.
3. My resignation is freely and voluntarily rendered; I am not being subjected to coercion or duress; and I am fully aware of the implications of submitting this resignation.
4. I am presently without representation, having been given a full and fair opportunity to obtain counsel in connection with these matters.
5. I am aware of a pending investigation by the Office of Disciplinary Counsel of alleged serious professional misconduct on my part. I acknowledge the material facts

FILED

7/27/2017

The Disciplinary Board of the  
Supreme Court of Pennsylvania

related to this misconduct are more fully set forth in the Petition for Emergency Temporary Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f), filed October 13, 2016, which resulted in the Court's November 23, 2016, Order of Temporary Suspension. The Petition and Order are attached hereto and incorporated herein as "Exhibit A" and "Exhibit B" respectively.

6. I <sup>Do NOT</sup> acknowledge that <sup>ALL</sup> the material facts set forth in the aforementioned Exhibits A and B are true.

7. I am submitting my resignation because I know that I could not successfully defend against charges predicated upon the misconduct under investigation, in violation of the Rules of Professional Conduct, as set forth in the aforementioned Exhibits A and B.

8. I am fully aware that the submission of this Resignation Statement is irrevocable and that I can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b)-(c).

9. I am aware that pursuant to Enforcement Rule 215(c), the fact that I have tendered my resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.

10. Upon entry of the disbarment Order, I will promptly comply with the notice, withdrawal, resignation, trust account, and cease-and-desist provisions of Enforcement Rule 217(a)-(d).

11. After entry of the disbarment Order, I will file a verified statement of compliance, as required by Enforcement Rule 217(e)(1).

ADDITIONALLY I AM RESIGNING DUE TO THE ETHICAL MISCONDUCT PERSONALLY WITNESSED BY THE BENCH & BAR



12. I am aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until I file the verified statement of compliance required by Enforcement Rule 217(e)(1). However, if the disbarment Order contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

It is understood that the statements made herein are subject to the penalties of 18 Pa. C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 9 day of JULY <sup>2017</sup>~~2018~~.

  
Elizabeth Jennifer Bartolai, Respondent

WITNESS: Mariah Bartolai

VERIFICATION

The statements contained in the foregoing Resignation Statement under Rule 215, Pa.R.D.E. are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities

27 July 2017  
Date

Kristin A. Wells  
Kristin A. Wells  
Disciplinary Counsel  
Attorney Reg. No. 312080

7/9/17  
Date

Elizabeth Jennifer Bartolai  
Elizabeth Jennifer Bartolai  
Respondent  
Attorney Registration No. 62355

THE DISCIPLINARY BOARD  
OF THE  
SUPREME COURT OF PENNSYLVANIA

Paul J. Killion  
Chief Disciplinary Counsel

Paul J. Burgoyne  
Deputy Chief Disciplinary Counsel

District III Office  
PA Judicial Center  
801 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106  
(717) 772-8572  
FAX (717) 772-7483



Disciplinary Counsel-in-Charge  
James P. Barker

Disciplinary Counsel  
Anthony A. Czuchnick  
Suzy S. Moore  
Kristin A. Wells

OFFICE OF DISCIPLINARY COUNSEL

[www.padisciplinaryboard.org](http://www.padisciplinaryboard.org)

October 13, 2016

Prothonotary  
Supreme Court of Pennsylvania  
Western District Office  
801 City-County Building  
414 Grant Street  
Pittsburgh, PA 15219

ATTN: John A. Vaskov, Esq.  
Deputy Prothonotary

Re: Office of Disciplinary Counsel  
v. Elizabeth Jennifer Bartolai  
ODC File Nos. C3-16-334, 340, 599, 661, and 662  
Attorney Registration No. 62355

Dear Mr. Vaskov:

Enclosed for filing is a Petition for Emergency Temporary  
Suspension and Related Relief Pursuant to Pa.R.D.E. 208(f) with  
Exhibits and Affidavit of Service.

Respectfully,

*Kristin A. Wells/smk*

Kristin A. Wells  
Disciplinary Counsel  
District III

KAW:smk  
Enclosures

cc: Paul J. Killion, Chief Disciplinary Counsel (w/enclosures)  
Paul J. Burgoyne, Deputy Chief Disciplinary Counsel  
(w/enclosures)  
Julia M. Frankston-Morris, Secretary of The Disciplinary  
Board (w/enclosures)

Exhibit A

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. \_\_\_\_, DD No. 3  
Petitioner :  
v. : ODC File Nos. C3-16-334, 340,  
: 599, 661, and 662  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
Respondent : (Luzerne)

PETITION FOR EMERGENCY TEMPORARY SUSPENSION  
AND RELATED RELIEF PURSUANT TO Pa.R.D.E. 208(f)

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES OF THE SUPREME COURT OF PENNSYLVANIA:

Petitioner, Office of Disciplinary Counsel, by Kristin A. Wells, Esquire, Disciplinary Counsel and by Paul J. Killion, Esquire, Chief Disciplinary Counsel, files this Petition for Emergency Temporary Suspension and Related Relief, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Enforcement Rule") 208(f) and § 91.151 of the Disciplinary Board Rules, and in support thereof states:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary

Enforcement (hereafter "Pa.R.D.E."), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, Elizabeth Jennifer Bartolai, was born in 1966 and was admitted to practice law in the Commonwealth of Pennsylvania on November 26, 1991. Respondent's registered address is Jewelcor Center, Suite 212, 100 North Wilkes-Barre Boulevard, Wilkes-Barre, Pennsylvania 18702. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. By information dated April 4, 2014, Respondent was charged with Driving Under the Influence (Impaired Ability, 1<sup>st</sup> Offense), 75 Pa.C.S.A. § 3802(d)(2), Possession of Marijuana, 35 Pa.C.S.A. § 780-113(a)(31), Possession of Drug Paraphernalia, 35 Pa.C.S.A. § 780-113(a)(32), and three counts of Possession of a Controlled Substance, 35 Pa.C.S.A. § 780-113(a)(16), docketed at *Commonwealth of Pennsylvania v. Elizabeth J. Bartolai*, No. CP-40-CR-2039-2014 (C.P. Luzerne).

4. The facts underlying the charges, as stated in the police report, attached hereto as **Exhibit A**, were as follows:

a. On October 11, 2013, Officer Fronzoni of the Edwardsville police responded to a call that Respondent was slumped

over in her vehicle in the parking lot of the Gateway Shopping Center in Edwardsville, Pennsylvania.

- b. When Officer Fronzoni arrived, he found Respondent passed out in the driver's seat of the vehicle with the keys in the ignition, though the vehicle was not running.
- c. After checking to see if Respondent was breathing, Officer Fronzoni noticed she appeared to be under the influence of a controlled substance.
- d. A bag of marijuana along with numerous Diazepam pills and Carisoprodol, both of which are controlled substances and neither of which were in properly labeled containers, were discovered in Respondent's purse.
- e. A second bag of marijuana was found below the driver's seat of the car and a marijuana pipe was discovered in the trunk.
- f. Upon discovery of these items, Respondent claimed that her friend previously borrowed the car.
- g. Pursuant to a search of her person, Officer Fronzoni found a third bag of marijuana and several loose Diazepam pills in Respondent's pocket.
- h. At the Edwardsville police station, Respondent refused blood testing, repeatedly cursed at Officer Fronzoni when asked to submit to testing and sign the Implied Consent Warning, and stated "I'll get out of this."

5. Following a hearing on Respondent's Motion to Suppress, the Driving Under the Influence count was dismissed based on the court's determination that, "at the time of the arrest, there was no evidence that [Respondent] was 'in actual physical control of the movement of a motor vehicle[.]'" **See Exhibit B.**

6. On December 23, 2014, Respondent pled guilty to Possession of Marijuana, 35 Pa.C.S.A. § 780-113(a)(31), a misdemeanor, and Possession of Drug Paraphernalia, 35 Pa.C.S.A. § 780-113(a)(32), a misdemeanor; she was sentenced to six months' probation and her driving privileges were revoked for a period of six months, pursuant to applicable statute.

7. Petitioner failed to report this conviction to the Office of Disciplinary Counsel within 20 days, as required by Pa.R.D.E. 214(a).

8. In response to this Office's DB-7 Request for Respondent's Position, dated February 6, 2015, Respondent did not accept responsibility for her actions, suggesting that the officer arrested her in retaliation for her involvement as counsel in having a forfeiture action dismissed.

9. Further, Respondent misrepresented that the Driving under the Influence charge was dismissed based on the court's determination that Respondent "was not under the influence of anything." **See Exhibit C.**

10. On May 27, 2015, Respondent received an Informal Admonition for violations of RPC 8.4(b), Pa.R.D.E. 203(b)(1) and Pa.R.D.E. 214(a), based on her conviction and failure to report.<sup>1</sup>

11. On May 5, 2016, Respondent was charged with Driving Under Suspension (DUS/DUI-Related), 75 Pa.C.S.A. § 1543(b)(1), and speeding, 75 Pa.C.S.A. 3362(a)(1)-(5), docketed at *Commonwealth of Pennsylvania v. Elisabeth J. Bartolai*, CP-40-SA-152-2016 (C.P. Luzerne).

12. On July 6, 2016, Respondent pled guilty to speeding, a Summary Offense, and was ordered to pay a fine and costs.

13. By information dated June 29, 2016, Respondent was charged with Driving under the Influence (Controlled Substance - 1<sup>st</sup> Offense), 75 Pa.C.S.A. § 3802(d)(2), Marijuana (Small Amount Personal Use), 35 Pa.C.S.A. § 780-113(a)(31)(i), Possession of Drug Paraphernalia, 35 Pa.C.S.A. § 780-113(a)(32), Possession of Controlled Substance, 35 Pa.C.S.A. § 780-113(a)(16), and Driving Under Suspension (DUS/DUI-Related), 75 Pa.C.S.A. § 1543(b)(1), docketed at *Commonwealth of Pennsylvania v. Elisabeth J. Bartolai*, CP-40-CR-3394-2016 (C.P. Luzerne).

14. The facts underlying the charges, as stated in the police report, attached hereto as **Exhibit D**, were as follows:

---

<sup>1</sup> Respondent's misrepresentation was not included in the proceeding.



- a. On February 22, 2016, Officer Posten of the Kingston Police responded to a call that Respondent was all over the road, almost hitting guardrails, and had pulled over after striking a wall.
- b. When Officer Posten arrived on the scene, he observed Respondent's car to have recent passenger-side damage.
- c. Upon being asked for identification, Respondent stated that she did not have it with her, offered to provide her name and date of birth.
- d. Respondent further stated that her previous DUI was dismissed and attempted to hand the officer court papers for that matter; Officer Posten was unaware of any prior DUI.
- e. Officer Posten then asked Respondent what was going on, and she began crying stating that her "asshole boyfriend" would not come help her with her car, which had gotten a flat tire while she was driving.
- f. While speaking with Respondent, Officer Posten observed that she was disoriented, having trouble paying attention and answering his questions, unsteady on her feet, unable to stand still, stuttering, slurring, muttering, and glossy eyed with pinpointed pupils.

- g. Officer Rinehimmer of the Dallas Police arrived on the scene and, following Respondent's consent, performed field sobriety testing.
- h. During the field sobriety testing, Officer Fuches of the Kingston Police arrived on the scene and asked Respondent for identification; she responded that her license was in her purse and provided consent for Officer Fuches to retrieve her identification.
- i. At the conclusion of the field sobriety testing, Respondent became irate, walked to her car, and opened the driver's side door.
- j. At that point, Officer Posten observed a 325 mg Oxycodone pill on the driver's side seat and a wax paper baggie on the driver's side floor that, pursuant to his training and experience, he recognized as commonly used to store heroin.
- k. Based on his observations, training, and experience, Officer Posten determined that Respondent was incapable of safe driving and placed her under arrest.
- l. Officers Rinehimmer and Posten performed a search of Respondent's vehicle and purse, which revealed several small rolled cigarillos containing marijuana in the ash tray, a green and yellow pill marked "TML0.4," a round white pill marked "Dan Dan 5442" on the driver's side

floor, and a silver container containing several pills of different sizes, colors, and shapes in Respondent's purse.

m. Respondent was transported to the Geisinger Wyoming Valley Hospital, where she refused to submit to chemical blood testing.

n. Respondent was then transported to the Kingston police station, where she was advised of her ~~Miranda~~ rights and agreed to talk to Officer Posten.

o. In response to Officer Posten's questioning, Respondent stated that she was coming from Scranton, had not consumed alcoholic beverages, and had taken Zoloft and Lamital approximately eight hours before the initial encounter.

p. Officer Holly Stull of the Plymouth police arrived to conduct a search of Respondent's person, which revealed two 325 mg Oxycodone pills in Respondent's left front pocket.

q. Upon their discovery, Respondent smiled and stated, "If I knew they were there I would have swallowed them."

15. Formal Arraignment in this matter is scheduled for December 8, 2016.

16. By information dated May 9, 2016, Respondent was charged with Driving under the Influence (Controlled Substance - 1<sup>st</sup>

Offense), 75 Pa.C.S.A. § 3802(d)(2), Accident Involving Death/Injury - Not Properly Licensed, 75 Pa.C.S.A. § 3742.1(a), Reckless Driving, 75 Pa.C.S.A. § 3736(a), Careless Driving, 75 Pa.C.S.A. 3714(a), BAC .02 or Higher - 3<sup>rd</sup> Offense, 75 Pa.C.S.A. § 1543(b)(1.1)(iii), Failure to Keep Right, 75, Pa.C.S.A. § 3301(a), and Disregard Traffic Lane (Single), 75 Pa.C.S.A. § 3309(1), docketed at *Commonwealth of Pennsylvania v. Elizabeth J. Bartolai*, CP-40-CR-2606-2016 (C.P. Luzerne).

17. The facts underlying the charges, as stated in the police report, attached hereto as **Exhibit E**, were as follows:

- a. On April 29, 2016, Officer Cebreck of the Larksville Police responded to a call of a two car accident involving rollover and entrapment.
- b. Upon arriving on the scene, Officer Cebreck observed Respondent's vehicle facing westbound partially in the westbound lane with heavy front and passenger side front corner damage.
- c. Officer Cebreck observed the other vehicle, which was overturned against a tree eastbound, to have heavy contact damage to the passenger side from just behind the front tire to the rear tire.
- d. The driver of the other vehicle advised Officer Cebreck that, while traveling westbound, he observed Respondent's vehicle coming towards him in the westbound lane; he

attempted to swerve and avoid contact, but was struck by Respondent's vehicle, causing his vehicle to spin and roll.

- e. Upon questioning, Respondent indicated to Officer Cebreck that she had swerved to avoid hitting a squirrel that ran into the road, but denied crossing into the other lane; when questioned regarding the damage to her vehicle, Respondent claimed it was preexisting.
- f. Respondent's statement of events was inconsistent with Officer Cebreck's subsequent evaluation of the collision scene and Respondent's vehicle, which indicated that her vehicle made contact with the other vehicle while she was traveling eastbound in the westbound lane.
- g. While speaking with Respondent, Officer Cebreck observed that she was unsteady on her feet, stumbling, swaying back and forth, droopy eyed, slurring, distracted, lethargic, and unable to focus on his questions.
- h. Officer Cebreck requested Respondent's identification, to which she stated that her license would come up as suspended, DUI related, but that it should not be and that she was pursuing an appeal.
- i. Upon Officer Cebreck's sixth request for identification, Respondent opened her wallet, but was observed by Officer Cebreck to have passed over her driver's license twice

before handing the same to him; the driver's license had two holes punched in it, indicating her suspended status.

j. Respondent consented to field sobriety testing, which she failed; she was then placed under arrest and transported to Geisinger Wyoming Valley Hospital, where she refused to submit to chemical blood testing stating, "What I am on is none of your business."

k. Respondent was then transported to the Larksville police station, and while awaiting her ride, mentioned to Officer Cebreck that she is personal friends with Pennsylvania State Troopers and Judge Hughes.

18. Respondent is currently awaiting trial in this matter.

19. On August 19, 2016, Respondent filed a Petition for Allowance of Appeal and Memorandum of Law in the Luzerne County Court of Common Pleas, docketed at **Elizabeth J. Bartolai v. Commonwealth of Pennsylvania Department of Transportation Bureau of Driver Licensing**, No. 8671 of 2016 (C.P. Luzerne), attached hereto as **Exhibit F**, wherein she stated that "The United States Supreme Court in Birchfeld v. North Dakota, concluded that the drawing and testing of an individual's blood, suspected of driving under the influence. a [sic] search within the protection of the Fourth Amendment, and therefore a warrant to be [sic] issued prior to search. Even in cases where consent was signed by a suspect

granting authorities to draw a suspect's, [sic] blood, the search (drawing of the blood) still required a warrant, for the search to be constitutional."

20. This is a clear misstatement of controlling precedent and, in any event, is irrelevant to Respondent's matter given her refusal to submit to chemical testing.

21. No further activity has occurred at this time.

22. By letter dated September 14, 2016, Petitioner was informed by Michael Shucosky, Esq., District Court Administrator, Luzerne County Court of Common Pleas, that, on September 13, 2016, Respondent appeared before the Honorable Jennifer Rogers for oral argument and was visibly impaired - slurring her speech, stumbling, spilling her water - and as a result ineffective in her legal discussions. Judge Rogers reported the incident to Attorney Shucosky due to her concern for Respondent's safety.

23. Attorney Shucosky followed up on Judge Roger's report by personally checking on Respondent. Attorney Shucosky likewise felt that Respondent was visibly impaired - glassy eyes, slurred speech, disheveled appearance. During their encounter, Respondent asserted that she just had a "fantastic" argument before Judge Rogers.

24. During Attorney Shucosky's subsequent discussion with Judge Rogers about the encounter, Judge Rogers confirmed that the oral argument was not "fantastic" and that she had actually brokered a deal directly with Respondent's client to resolve the

case, which involved a simple allocation of costs in a divorce proceeding.

25. Petitioner further has three open complaints against Respondent.

- a. In C3-16-334, it is alleged that Respondent was paid a \$4,000.00 retainer fee in 2010 for a property dispute matter, but following filling the complaint and the submission of a discovery request, has failed to move the case forward since February 2011.
- b. In C3-16-599, it is alleged that Respondent was paid a \$7,500.00 retainer, but provided incompetent representation in that she repeatedly failed to inform the client of court appearances, showed up late for two court appearances, and was impaired during a court proceeding and a client meeting.
- c. In C3-16-662, on June 7, 2016, a default judgment was entered against Respondent in the amount of \$2,400.00, docketed at *James P. Meyers v. Elisabeth Bartolai*, MJ-11102-CV-385-2015, based on Mr. Meyer's allegation that Respondent was paid a \$2,400.00 retainer for representation in a divorce matter, but failed to take any action on Mr. Meyers's behalf and failed to respond to his requests for information. Respondent appealed the decision and filed a proof of service on July 29, 2016,



containing a green card bearing "James Meyers W-B 18703" on the address line; Mr. Meyer's address as listed on the pleadings is 501 Rutter Avenue, Kingston, Pennsylvania 18704. Upon investigation, it was discovered that Mr. Meyers did not receive notice of the appeal and was unaware of its filing.

26. Based on Respondent's suspected drug addiction and complaints involving client funds, Petitioner issued a Subpoena Deuces Tecum, returnable September 14, 2016, for IOLTA records for the period of January 2010 to present and fee agreements, billing statements, disbursement schedules, client ledgers, and full accountings for two of the above client matters.

27. The subpoena was served on Respondent via certified and first-class mail at Respondent's last registered address.

28. The certified mailing was available for pickup August 31, 2016, but was returned September 16, 2016, as unclaimed.

29. The first-class mailing was not returned.

30. Petitioner has used this mailing address successfully to communicate with Respondent in the recent past.

31. Respondent failed to appear for the subpoena return, communicate with Petitioner regarding the Subpoena Deuces Tecum, or otherwise provide the requested documents.

32. Petitioner believes, and therefore avers, that by virtue of the aforesaid acts, Respondent has engaged in manifest and

continuing violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement, including RPC 1.1, RPC 1.3, RPC 1.4(a)(2), RPC 1.4(a)(3), RPC 3.1, RPC 3.2, RPC 3.3(a)(1), RPC 8.1(b); RPC 8.4(a); RPC 8.4(b); RPC 8.4(c); RPC 8.4(d); Pa.R.D.E. 203(b)(4); and Disciplinary Board Rules § 91.4 via Pa.R.D.E. 203(b)(3).

33. Petitioner believes, and therefore avers, that the continued practice of law by Respondent constitutes a continuing threat of immediate and substantial public and private harm as set forth in Enforcement Rule 208(f).

WHEREFORE, Petitioner respectfully requests that your Honorable Court:

- a. Issue a rule upon Respondent to show cause why she should not be placed on temporary suspension from the practice of law, pursuant to Enforcement Rule 208(f)(1), returnable at a date, time and place certain, and with a response to the allegations set forth herein.

AND FURTHER, after due consideration of any response made by Respondent and further proceedings held in accordance with Enforcement Rule 208(f), your Court grant the following additional relief:

- a. Order that Respondent be suspended in accordance with Enforcement Rule 208(f)(2), as a matter of

"public discipline" as that term is used in Enforcement Rule 402, pertaining to confidentiality, and that she comply with Enforcement Rule 217; and

- b. Grant such other relief as may be deemed appropriate and necessary by your Honorable Court.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion  
Chief Disciplinary Counsel

27 September 2016  
Date

By: Kristin A. Wells  
Kristin A. Wells,  
Disciplinary Counsel  
District III  
Attorney Registration No. 308715  
PA Judicial Center  
601 Commonwealth Avenue, Suite 5800

P.O. Box 62675  
Harrisburg, PA 17106-2675  
(717) 772-8572

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. \_\_\_\_, DD No. 3  
Petitioner :  
v. : ODC File Nos. C3-16-334, 340,  
: 599, 661, and 662  
: :  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
Respondent : (Luzerne)

VERIFIED STATEMENT

I, Kristin A. Wells, Disciplinary Counsel, state under the penalties provided in 18 Pa.C.S. § 4904 (unsworn falsification to authorities) that:

I am a Disciplinary Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania assigned to prosecute this matter pursuant to the Pennsylvania Rules of Disciplinary Enforcement;

I am authorized to make this verified statement; and

The facts contained in the attached *Petition for Emergency Temporary Suspension and Relate Relief Pursuant to Pa.R.D.E. 208(f)* are true and correct to the best of my knowledge, information and belief.

27 September 2016  
DATE

Kristin A. Wells  
Kristin A. Wells  
Disciplinary Counsel  
District III

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. \_\_\_\_, DD No. 3  
Petitioner :  
v. : ODC File Nos. C3-16-334, 340,  
: 599, 661, and 662  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
Respondent : (Luzerne)

**CONCURRENCE OF DISCIPLINARY BOARD MEMBER**

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES OF THE SUPREME COURT  
OF PENNSYLVANIA:

Pursuant to Rule 208(f), Pa.R.D.E., and Section 9151(a) of the  
Disciplinary Board Rules, I have reviewed the foregoing Petition  
for Emergency Temporary Relief and concur in the presentation of  
the Petition to the Supreme Court of Pennsylvania by the Office of  
Disciplinary Counsel.

09.27.16  
DATE

  
Jane G. Penny, Esq.  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No.\_\_\_\_, DD No. 3  
Petitioner :  
v. : ODC File Nos. C3-16-334, 340,  
: 599, 661, and 662  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
Respondent : (Luzerne)

ORDER AND RULE TO SHOW CAUSE

PER CURIAM:

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2016,  
after consideration of the within Petition, this Court issues a  
Rule upon Respondent, Elizabeth Jennifer Bartolai, to show cause  
why she should not be placed on temporary suspension pursuant to  
Rule 208(f), Pa.R.D.E.

Respondent is directed to file any Response to the Petition  
and to this Rule within ten (10) days of the date hereof and to  
timely serve a copy of said response upon the Office of  
Disciplinary Counsel.

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. \_\_\_\_, DD No. 3  
Petitioner :  
v. : ODC File Nos. C3-16-334, 340,  
: 599, 661, and 662  
: Attorney Registration No. 62355  
ELIZABETH JENNIFER BARTOLAI, :  
Respondent : (Luzerne)

ORDER

PER CURIAM:

AND NOW, this \_\_\_\_ day of \_\_\_\_\_, 2016, an  
Order and Rule to Show Cause having been entered by this Court on  
\_\_\_\_\_, and upon consideration of the responses  
filed, it is hereby ORDERED that:

1. The Rule is made absolute and Respondent is placed on  
temporary suspension until further definitive action by  
this Court; and
2. Respondent shall comply with the provisions of Rule 217,  
Pa.R.D.E.

This Order constitutes an imposition of public discipline  
within the meaning of Rule 402, Pa.R.D.E., pertaining to  
confidentiality.

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LUZERNE

Magisterial District Number: 11-1-05

MDJ Hon. PAUL J. ROBERTS  
Address: 500 WYOMING AVE  
KINGSTON, PA 18704

Telephone: (570)287-2800



POLICE CRIMINAL COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA

DEFENDANT: (NAME and ADDRESS)

ELIZABETH J BARTOLAI  
220 BEAUPLAND RD  
BEAR CREEK, PA 18602

NCIC Extradition Code Type

- 1 - Felony Full     4 - Felony No Ext.     B - Misdemeanor Limited     E - Misdemeanor Pending  
 2 - Felony Ltd.     5 - Felony Pend.     C - Misdemeanor Surrounding States     Distance: \_\_\_\_\_  
 3 - Felony Surrounding States     A - Misdemeanor Full     D - Misdemeanor No Extradition

DEFENDANT IDENTIFICATION INFORMATION

Docket Number <b>CR-138-14</b>	Date Filed <b>4-4-14</b>	OTN/LiveScan Number <b>T450708-6</b>	Complaint/Incident Number <b>20131011M4209</b>	SID	Request Lab Service? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	DOB <b>05/21/1966</b>	POB <b>NEW YORK</b>	Add'l. DOB	Co-Defendants? <input type="checkbox"/>	
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown		ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown			
HAIR COLOR <input type="checkbox"/> Gry (Gray) <input checked="" type="checkbox"/> Red (Red/Aubn) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Ong (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Ink/Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> Bln (Blonde / Strawberry)		EYE COLOR <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Blu (Blue) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> XXX (Unknown)			
Driver License	State	License Number	Expires	WEIGHT (lbs.)	
DNA	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location			
FBI Number	MNU Number		FT. HEIGHT in.		
Defendant Fingerprinted	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
Fingerprint Classification					

DEFENDANT VEHICLE INFORMATION

Plate # <b>LIZESQ</b>	State <b>PA</b>	Hazmat <input type="checkbox"/>	Registration Sticker (MM/YY) <b>11/14</b>	Comm'l Veh Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. Same as Def. <input type="checkbox"/>
VIN	Year <b>2005</b>	Make <b>SAAB</b>	Model	Style	Color <b>GRAY</b>		

Office of the attorney for the Commonwealth     Approved     Disapproved because: \_\_\_\_\_

(The attorney for the Commonwealth may require the complaint, arrest warrant affidavit, or both, be approved by the attorney for the Commonwealth prior to filing. See PA. R. Crim. P 207.)

(Name of the attorney for the Commonwealth - Please Print or Type)

(Signature of the attorney for the Commonwealth)

(Date)

I, **PTLM. JOHN FRONZONI**  
(Name of the Affiant)

**2734/MO27434C**

(Affiant ID Number & Badge #)

of **EDWARDSVILLE POLICE DEPARTMENT**  
(Identify Department or Agency Represented and Political Subdivision)

**PA0400400**

(Police Agency ORI Number)

do hereby state:

- I accuse the above named defendant who lives at the address set forth above  
 I accuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_

- I accuse the defendant whose name and popular designation are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [ **408** ] **EDWARDSVILLE**

**EDWARDSVILLE, GATEWAY SHOPPING CENTER**

in **LUZERNE** County [ **40** ] on or about **11 OCTOBER 2013 AT 1459 HRS.**

**THIS 29th DAY OF January 2015**

CLERK OF THE COURT OF COMMON PLEAS

Exhibit A





# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number <b>20131011M4209</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.  
 (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits 204 PA 55 213. - 213.7.)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
<input checked="" type="checkbox"/> Lead?	<b>1</b>	<b>13</b>	<b>A31</b> of the <b>35</b> <b>1</b> <b>M</b> <b>3562</b>
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone <input type="checkbox"/> Work Zone	
Statute Description (include the name of statute or ordinance): <b>VIOL CONTROLLED SUBST, DRUG DEVICE &amp; COSMETIC ACT</b>			

Acts of the accused associated with this Offense:  
**POSSESSION OR DISTRIBUTION OF A SMALL AMOUNT OF MARIJUANA** The Actor, Elizabeth BARTOLAI, on or about, 10-11-13, in the County of Luzerne, distributed but did not sell thirty or fewer grams of marijuana, a small amount, in violation of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(31)(iii)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
<input type="checkbox"/> Lead?	<b>2</b>	<b>13</b>	<b>A32</b> of the <b>35</b> <b>1</b> <b>M</b> <b>3550</b>
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone <input type="checkbox"/> Work Zone	
Statute Description (include the name of statute or ordinance): <b>VIOL CONTROLLED SUBST, DRUG DEVICE &amp; COSMETIC ACT</b>			

Acts of the accused associated with this Offense:  
**POSSESSION OF DRUG PARAPHERNALIA** The Actor, Elizabeth BARTOLAI, on or about, 10-11-13, in the County of Luzerne, not being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, nor a practitioner registered or licensed by the appropriate State Board, used or possessed with intent to use drug paraphernalia, namely, Glass Smoking Pipe, for the purpose of packaging, preparing, storing, containing, concealing and ingesting or otherwise introducing into the human body, a controlled substance, namely, Marijuana, in violation of Section 13(a)(32) of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(32)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
<input type="checkbox"/> Lead?	<b>3</b>	<b>13</b>	<b>A16</b> of the <b>35</b> <b>3</b> <b>M</b>
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone <input type="checkbox"/> Work Zone	
Statute Description (include the name of statute or ordinance): <b>VIOL CONTROLLED SUBST, DRUG DEVICE &amp; COSMETIC ACT</b>			

Acts of the accused associated with this Offense:  
**POSSESSION OF CONTROLLED SUBSTANCE, DRUGS, DEVICE OR COSMETIC** The Actor, Elizabeth BARTOLAI, on or about, 10-11-13, in the County of Luzerne, knowingly or intentionally possessed a controlled or counterfeit substance, namely, Marijuana, Diazepam & Carisoprodol, the said actor not then and there being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, or a practitioner registered or licensed by the appropriate State Board, in Violation of Section 13(a)(16) of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(16)



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number <b>20131011M4209</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/> Lead?	<b>4</b>	<b>3802</b>	<b>D2</b>	of the	<b>75</b>	<b>1</b>	<b>M</b>	<b>5403</b>	
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (Include the name of statute or ordinance):  
**DRIVING UNDER THE INFLUENCE CONTROLLED SUBSTANCE**

Acts of the accused associated with this Offense:  
**DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE -CONROLLED SUBSTANCE**  
 75 Pa. C.S. 3802(d)(2).  
 On or about 10-11-13, the actor, Elizabeth BARTOLAI, unlawfully drove, operated or was in actual physical control over the movement of a vehicle in the area of US Route 11 & Gateway Shopping Plaza, Luzerne County, Pennsylvania, while under the influence of any drug or combination of drugs to a degree which impaired the actor's ability to drive safely.



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number <b>20131011M4209</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered 1 through 3.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of Assembly, or in violation of the statutes cited. (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

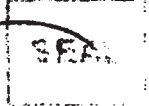
4-4-14  
(Date)

PTLM/HJ 1027434  
(Signature of Affiant)

AND NOW, on this date 4-4-14 I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

11-1-05  
(Magisterial District Court Number)

[Signature]  
(Issuing Authority)





**POLICE CRIMINAL COMPLAINT**

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number <b>20131011M4209</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

**AFFIDAVIT of PROBABLE CAUSE**

10/11/2013 14:59 - 2734 PTLM. JOHN FRONZONI

On the 11th of October 2013, I Ptlm. John F Fronzoni of the Edwardsville Police Department was dispatched by the Luzerne County 911 Center to the Yogo Factory Located in the Gateway Shopping Center Edwardsville for the report of a female who was slumped over the passenger seat of her vehicle. While enroute to the call additional information was received from the caller stating that the female operator was now hunched over the steering wheel. Upon arriving on scene I was directed to the Grey Saab bearing Pa registration LIZESQ. I ran the registration information through LC911 who then advised me that the vehicle was registered to Elizabeth BARTOLAI. I then approached the drivers side of the vehicle which was occupied by an unknown female also noticing that a full and freshly spilled cup of frozen yogurt was upon the ground just outside of the drivers door.

While standing at the drivers door for about 30 seconds with the female operator never noticing me, I observed the female to be seated in the drivers seat with her head nearly in her lap. At this time I could not tell if the female was breathing. Now concerned for her welfare I opened the unlocked drivers door. After opening the door the female slowly became aware to the fact that I was standing there. I asked the female to step out of the vehicle in order to be treated by the ambulance that was on scene. As the female began to exit the vehicle she took the ignition keys from within the ignition and placed them on the drivers seat. Once out of the vehicle her gait was very unsteady. I asked the female if she was ok to which she very hesitantly replied that she was however she also changed her mind stating that she was sick. I asked the female as to where she had come from to which she replied by pointing towards US Route 11 and the entrance of the Gateway Shopping Plaza. I then asked the female if she had any identification which she stated she did and that it was in the trunk of the vehicle. The female began to go to the rear trunk area continually relying on the support of the vehicle. The female then opened the trunk and began looking for her purse which she eventually located. As the female began taking out the small pocket book that was within the larger purse I observed her to try and push a clear plastic bag containing what appeared to be a green leafy substance back deeper into the purse. Through my training and experience I have known this to be consistent with the packaging and/or storing of marijuana. The female then handed me her Pa driver license and at this time it was learned that the female was Elizabeth BARTOLAI dob:5-21-66.

BARTOLAI was taken to the rear of the ambulance to be evaluated by medical personnel. While BARTOLAI was being evaluated and asked questions by medical personnel it was noticed that her statements of what occurred were very inconsistent, she could not remember what happened after getting her frozen yogurt nor did she recall myself arousing her while she was slumped over the wheel. BARTOLAI however was insistent on getting back to her vehicle in order to call her daughter who at this time was waiting to be picked up from the bus stop. I allowed BARTOLAI to return to her vehicle in order to call her daughter. BARTOLAI opened the driver side door and entered the vehicle to grab a phone while in doing so I observed in plain sight a clear baggie containing a green leafy substance suspected to be marijuana located at the base of the drivers seat closest to the door jam. At this time BARTOLAI was leaning across the interior of the vehicle talking on the phone also what appeared to be attempting to hiding something. I removed the suspected marijuana and placed in on the roof of the vehicle continuing to observe

I, PTLM. JOHN FRONZONI (2734), BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

PTLM. John F. Fronzoni M027434  
(Signature of Affiant)

Sworn to me and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ Date \_\_\_\_\_, Magisterial District Judge

My commission expires first Monday of January, \_\_\_\_\_





# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number <b>20131011M4209</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

## AFFIDAVIT of PROBABLE CAUSE CONTINUATION

BARTOLAI's actions. Near the completion of her phone call BARTOLAI exited the vehicle and stood up looking over the roof of the vehicle at the bag of suspected marijuana atop the roof. BARTOLAI not realizing I was standing directly behind her watching her actions, attempted to grab the suspected bag and discard it. At this time BARTOLAI was advised she was being taken into custody for suspicion of DUI as well as possession of a suspected controlled substance.

Upon placing BARTOLAI into custody she blurted "my friend borrowed my vehicle". After being placed in cuffs and prior to being placed into the rear of the police vehicle BARTOLAI was asked if she had anything else on her to which she stated that she did not. I then asked BARTOLAI what the slight bulge was in her front left jean pocket was to which she stated she did not know. I then did a finger sweep of BARTOLAI's front left pocket which revealed more suspected marijuana and several pills which have been identified as Diazepam 10mg, which is a Schedule 3 narcotic. After BARTOLAI was placed in the rear of my police vehicle I returned to the trunk of the vehicle where I initially observed the clear baggie containing suspected marijuana. I recovered the baggie, a further search incident to this arrest revealed a glass smoking pipe which I also know through training and experience to be used for the purpose of inhaling marijuana. Also located within BARTOLAI's purse were numerous Diazepam pills as well as Carisoprodol none of which were in a properly labeled container.

BARTOLAI was then transported to the Edwardsville Police Department in order to pick up a DUI testing Kit. While at the Police Department and after getting a testing kit BARTOLAI was asked if she would submit to a chemical test of her blood to which she refused. Then in the presence of a witness, Jamie WOOLFOLK of the Edwardsville Ambulance Association, BARTOLAI was read the entire Implied Consent warnings including the penalties for a refusal. BARTOLAI was then asked again to submit to a chemical test of her blood, to which she replied "GO FUCK YOURSELF I'M NOT TAKING ANY TESTS". BARTOLAI was asked if she would like to sign the Implied Consent Warnings to which she responded "FUCK OFF I'LL GET OUT OF THIS". At this point and after having asked BARTOLAI several times to submit to the testing it was determined that she would be refusing the chemical test as well as refusing to sign the Implied Consent Warnings.

BARTOLAI was then placed into a holding cell at the Edwardsville Police Department. During this period of time numerous attempts were made to contact someone to pick up BARTOLAI's young daughter from her school bus stop located at TGI Fridays in Wilkes Barre Township. Contact was never made to any other individual in order to accomplish this. I then proceeded to the location to get the child as I was concerned for her well being. After arriving at the location I located BARTOLAI's daughter and brought her back to the Edwardsville Police Department until finally contact was made to BARTOLAI's husband. A short time later BARTOLAI's husband arrived at the Police Department and retrieved his wife and young daughter. BARTOLAI was advised the charges would be filed at a later date.

PTM  No 27434  
(Signature of Affiant)

*Prn  
11-7*

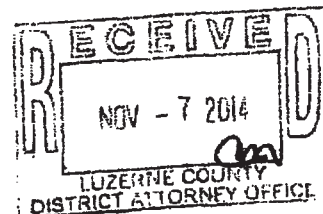
COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY
vs.	:	CRIMINAL
ELIZABETH J. BARTOLAI	:	NO. 2039 of 2014

**ORDER**

AND NOW, this *7<sup>th</sup>* day of November, 2014, after hearing, it is hereby,

**ORDERED, ADJUDGED, AND DECREED** as follows:

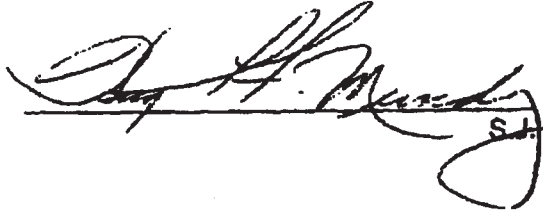
1. The matter before the Court is the Omnibus Motion to Suppress filed on behalf of the defendant, Elizabeth J. Bartolai;
2. On October 11, 2013, the defendant, Elizabeth J. Bartolai, was arrested for DUI, Possession of Marijuana, and Possession of Drug Paraphernalia;
3. The Omnibus Motion to Suppress maintains that the foregoing arrests, being without probable cause, were unlawful and all evidence relating to said arrests should be suppressed;
4. For the reasons set forth in the Findings of Fact and Conclusions of Law attached hereto, the Omnibus Motion to Suppress is **GRANTED** as to the DUI arrest and **DENIED** as to the possession of marijuana and drug paraphernalia arrest; and



*Exhibit B*

5. The Clerk of Courts Office of Luzerne County is **ORDERED AND DIRECTED** to mail a copy of this Order to all counsel of record pursuant to Pa. R.Crim.P. 114.

BY THE COURT,

A handwritten signature in black ink, appearing to read "Michael Sowinski", written over a horizontal line. The signature is stylized and cursive.

**MICHAEL SOWINSKI, ESQUIRE  
ASSISTANT DISTRICT ATTORNEY**

**MELISSA McCAFFETY, ESQUIRE  
222 EAST LINCOLN HIGHWAY  
COATESVILLE, PA 19320**



COMMONWEALTH OF PENNSYLVANIA	:	IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY
vs.	:	CRIMINAL
ELIZABETH J. BARTOLAI	:	NO. 2039 of 2014

**FINDINGS OF FACT**

1. Officer Fronzoni, of the Edwardsville Police Department, the arresting officer, was in the vicinity of the Defendant's vehicle on October 11, 2013, having been dispatched by the 911 Center as the result of a call to the center reporting a female slumped over the steering wheel of a parked vehicle;

2. Upon arrival at the parked vehicle Officer Fronzoni testified he observed the female slumped over the steering wheel, apparently sleeping, knocked on the driver's side window to wake the female and, after not being able to determine if the female was breathing, opened the driver's side door;

3. He testified that the female became aware of his presence and was asked to step out of the vehicle to be examined by ambulance personnel at the scene;

4. He testified that upon exiting the vehicle the female's gait was unsteady, she acted disoriented and had slurred speech and bloodshot eyes, and she advised him that she was ill.

5. He testified that he asked for identification and was provided with the female driver's license, identifying her as the defendant, Elizabeth Bartolai;



6. He further testified that in the course of obtaining her license, the defendant got her purse from the trunk of her vehicle and, while she was rummaging through her purse, he observed a clear plastic bag containing a green leafy substance, which, based upon his experience, he suspected to be marijuana;

7. He testified that after being examined by the ambulance personnel he accompanied the defendant to her vehicle, where she obtained her cell phone to call her daughter;

8. He testified that when the defendant opened the driver's side door he observed a clear baggie containing a green leafy substance, in plain view, at the base of the driver's seat;

9. He testified that based upon his experience, he suspected the clear plastic baggie contained marijuana;

10. Based upon his suspicion, he testified that he placed the defendant in custody for suspected DUI and possession of a controlled substance and drug paraphernalia;

11. He testified that, in his opinion, the defendant was incapable of safe driving, as the result of being under the influence of "some substance";

12. Subsequent to placing the defendant in custody he testified he conducted a pat down search which revealed marijuana and pills;

13. He testified that a subsequent search of the defendant's vehicle revealed a glass smoking pipe which, based upon his experience, was used for smoking marijuana;

14. On cross-examination Officer Fronzoni acknowledged that the defendant was arrested on October 11, 2013, but was not charged until approximately six months later.

**CONCLUSIONS OF LAW**

1. The burden of going forward with the evidence and establishing a legal search and seizure rests on the Commonwealth. Pa. R.Crim.P. 581(h);

2. There are three levels of interaction between law enforcement officers and private citizens:

A mere encounter which does not require any level of suspicion;

An investigative detention which must be supported by reasonable suspicion; and

A custodial detention which must be supported by probable cause.

Commonwealth v. Collins, 950 A.2d 1041 (Pa. Super. 2008)

3. As reflected in the Findings of Fact, the period from the time of Officer Fronzoni's arrival to his observation of suspected marijuana in the defendant's purse constituted a mere encounter which did not require any level of suspicion;

4. As reflected in the Findings of Fact, the period from the observation of suspected marijuana in the defendant's purse by Officer Fronzoni's to his observation of the baggie, in plain view, at the base of the driver's seat, constituted an investigative detention which was based on reasonable suspicion, the observation of suspected marijuana in the defendant's purse.

5. As reflected in the Finding's of Fact, the period from the pat down of the defendant's pocket to the search of her vehicle constituted custodial detention which was based upon probable cause, the observation of the clear baggie in plain view.

6. Based on all of the foregoing, there is no question but that Officer Fronzoni had probable cause to arrest the defendant for possession of marijuana and drug paraphernalia.

7. Based on all of the foregoing there is equally no question but that Officer Fronzoni did not have probable cause to arrest the defendant for DUI Controlled Substance;

8. The information states:

"The Actor drove, operated, or was in actual physical control of the movement of a motor vehicle at the Gateway Shopping Center, Edwardsville, PA, while under the influence of any drug. . . to a degree which impaired the actor's ability to drive safely. . . "

9. As to the DUI arrest, the issue before this Court is whether Officer Fronzoni had probable cause to believe the defendant "was in actual physical control of the movement of a motor vehicle" while under the influence of any drug which impaired her ability to drive safely;

10. Actual physical control of the movement of a motor vehicle is determined by the totality of the circumstances. Com. v. Williams, 941 A.2d 14 (Pa.Super.2008);

11. The only evidence presented by the Commonwealth in support of the defendant being "in actual physical control of the movement of a motor vehicle" was that the vehicle was registered to the defendant, that the defendant did not park her vehicle between the lines, and that the defendant was seated in the driver's seat;

12. There was no testimony from the Commonwealth as to how long the vehicle had been parked, how long the defendant had been sleeping, whether the engine hood was hot or cold, and whether the vehicle keys were in the ignition or even in the possession of the defendant;

13. No field sobriety tests were performed, although Officer Fronzoni did testify that the defendant's speech was slurred and her eyes were bloodshot;

14. As to the DUI arrest, in this Court's view, Officer Fronzoni may have had reasonable suspicion that the defendant was in actual physical control of the movement of the motor vehicle at some point in time prior to his arrival, but did not have probable cause to believe that, at that prior time, she was under the influence of any drug, or, at that prior time that her ability to drive safely was impaired;

15. Clearly, at the time of her arrest, there was no evidence that the defendant was "in actual physical control of the movement of a motor vehicle;

16. Based on all of the foregoing the Court enters the following Order.

### Magisterial District Judge 11-1-05



Docket Number: MJ-11105-CR-0000138-2014

### Criminal Docket

Commonwealth of Pennsylvania  
v.  
Elizabeth J Bartolai

Page 1 of 3

<b>Judge Assigned:</b>	Magisterial District Judge Paul J. Roberts	<b>Issue Date:</b>	04/04/2014
<b>OTN:</b>	T 450708-6	<b>File Date:</b>	04/04/2014
<b>Arresting Agency:</b>	Edwardsville Boro Police Dept	<b>Arrest Date:</b>	
<b>Complain/Incident #:</b>	20131011M4209	<b>Disposition:</b>	Held for Court
<b>County:</b>	Luzerne	<b>Disposition Date:</b>	06/05/2014
<b>Township:</b>	Edwardsville Borough	<b>Case Status:</b>	Closed

<b>Case Status</b>	<b>Status Date</b>	<b>Processing Status</b>
Closed	08/10/2014	Case Transferred to Court of Common Pleas
	06/05/2014	Completed
	04/04/2014	Awaiting Preliminary Hearing

<u>Case Calendar</u>	<u>Schedule</u>	<u>Start Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule Status</u>
<u>Event Type</u>	<u>Start Date</u>				
Preliminary Hearing	05/07/2014	1:00 pm		Magisterial District Judge Paul J. Roberts	Continued
Preliminary Hearing	05/29/2014	1:30 pm		Magisterial District Judge Paul J. Roberts	Continued
Preliminary Hearing	06/05/2014	1:30 pm		Magisterial District Judge Paul J. Roberts	Scheduled
Formal Arraignment	09/05/2014	10:00 am	Luzerne County Courthouse, 3rd Floor		Scheduled

<b>Name:</b>	Bartolai, Elizabeth J	<b>Sex:</b>	Female
<b>Date of Birth:</b>	05/21/1966	<b>Race:</b>	White
<b>Address(es):</b>			
<b>Other</b>			
Bear Creek, PA 18602			

Advised of His Right to Apply for Assignment of Counsel?	No
Public Defender Requested by the Defendant?	No
Application Provided for Appointment of Public Defender?	Yes
Has the Defendant Been Fingerprinted?	Yes

**Magisterial District Judge 11-1-05**



Docket Number: MJ-11105-CR-0000138-2014

**Criminal Docket**

Commonwealth of Pennsylvania  
v.  
Elizabeth J Bartolai

Page 2 of 3

<u>Participant Type</u>	<u>Participant Name</u>
Defendant	Bartolai, Elizabeth J
Arresting Officer	Fronzoni, John F. Jr.

<b>Bail Set:</b>				
<u>Bail Action Type</u>	<u>Bail Action Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>
Set	08/05/2014	Unsecured		\$5,000.00

# Charges	Grade	Description	Offense Dt.	Disposition
1 35 § 780-113 §§ A31	M	Poss Of Marijuana	10/11/2013	Held for Court
2 35 § 780-113 §§ A32	M	Use/Poss Of Drug Paraph	10/11/2013	Held for Court
3 35 § 780-113 §§ A16	M	Int Poss Contr Subst By Per Not Reg	10/11/2013	Dismissed
4 35 § 780-113 §§ A16	M	Int Poss Contr Subst By Per Not Reg	10/11/2013	Dismissed
5 35 § 780-113 §§ A16	M	Int Poss Contr Subst By Per Not Reg	10/11/2013	Dismissed
6 75 § 3802 §§ D2*	M	DUI: Controlled Substance - Impaired Ability - 1st Offense	10/11/2013	Held for Court

<u>Case Disposition</u>	<u>Disposition Date</u>	<u>Was Defendant Present?</u>
Held for Court	08/05/2014	Yes
<u>Offense No./Description</u>	<u>Offense Disposition</u>	
1 Poss Of Marijuana	Held for Court	
2 Use/Poss Of Drug Paraph	Held for Court	
3 Int Poss Contr Subst By Per Not Reg	Dismissed	
4 Int Poss Contr Subst By Per Not Reg	Dismissed	
5 Int Poss Contr Subst By Per Not Reg	Dismissed	
6 DUI: Controlled Substance - Impaired Ability - 1st Offense	Held for Court	

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assumes any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket sheet information should not be used in place of a criminal history background check, which can only be provided by the Pennsylvania State Police. Employers who do not comply with the provisions of the Criminal History Record Information Act (18 Pa.C.S. Section 9101 et seq.) may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

### Magisterial District Judge 11-1-05



Docket Number: MJ-11105-CR-0000138-2014

### Criminal Docket

Commonwealth of Pennsylvania  
v.  
Elizabeth J Bartolai

Page 3 of 3

**Private**

**Name:** Melissa Beriot McCallerty, Esq.

**Representing:** Bartolai, Elizabeth J

**Courtroll Status:** Active

**Supreme Court No.:** 073543

**Phone No.:**

**Address:** 222 E Lincoln Highway  
Catasville, PA 19320-3408

Filed Date	Entry	Filer	Applies To
06/05/2014	Held for Court	Magisterial District Judge Paul J. Roberts	Elizabeth J Bartolai, Defendant
04/25/2014	Certified Summons Unclaimed	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/25/2014	Certified Fingerprint Order Unclaimed	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/25/2014	First Class Summons Accepted	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	Summons Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	First Class Fingerprint Order Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	Fingerprint Order Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	Certified Summons Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	Certified Fingerprint Order Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant
04/04/2014	Criminal Complaint Filed	Magisterial District Court 11-1-05	
04/04/2014	First Class Summons Issued	Magisterial District Court 11-1-05	Elizabeth J Bartolai, Defendant

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assumes any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket sheet information should not be used in place of a criminal history background check, which can only be provided by the Pennsylvania State Police. Employers who do not comply with the provisions of the Criminal History Record Information Act (18 Pa.C.S. Section 9101 et seq.) may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

**ELIZABETH J. BARTOLAI, ESQUIRE**

88 North Franklin Street  
Wilkes-Barre, Pennsylvania 18701  
(570) 829-5579; fax (570) 825-6675

ATTORNEY AT LAW

March 4, 2015

Kristen A. Wells, Esquire  
Office of Disciplinary Counsel  
PA Judicial Center  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106

**RECEIVED**

MAR - 9 2015

DISTRICT III  
OFFICE OF  
DISCIPLINARY COUNSEL

Dear Attorney Wells:

I am writing this Statement of Respondent's Position in response to your letter dated February 6, 2015. I had sent a letter in response and it was returned to me by the Post Office. Therefore I am taking this opportunity to revise my previous statement to include further information that has come to my attention. In response to the facts you allege are under consideration, my response is as follows:

1. Admitted. By way of further answer, Respondent had been prescribed Augmentation by her physician for acute bronchitis. Respondent visited her friend and shop owner at lunch time and decided to get frozen yogurt from around the corner because the medication made Respondent sick.
2. Denied. Respondent had been napping in her vehicle due to acute stomach pain but had spoken to her husband by phone before the police arrived. Her key was not in the ignition because she had not been driving and her ignition switch was going which required the key be removed every time the vehicle shut off. Respondent's mechanic testified at Respondent's Suppression hearing and was present at Respondent's Driver's License Suspension Hearing but did not testify after an Offer of Proof.
3. Denied. In fact the Honorable Judge Hugh Mundy dismissed the D.U.I. charge for lack of probable cause and I, Respondent, was not under the influence of anything.
4. Denied. It was denied that any of those items were found in Respondent's purse.

Exhibit C



5. Admitted.

6. Admitted.

7. Denied. Nothing was found in Respondent's trunk.

8. Denied. The statement made to the officer was that I, Respondent, had given a client a ride.

9. Denied. There was no marijuana found in Respondent's pockets.

10. Denied. By way of further answer, the officer took Respondent from his police cruiser right to a holding cell. He did not discuss BAC at all. The Honorable Judge Michael T. Vough dismissed Penn Dot's D.U.I. related suspension after taking testimony on December 22, 2014 from the Officer and Respondent. That appeal was docketed to No. 8741 of 2014 and Penn Dot has filed an appeal to Judge Vough's ruling to Superior Court. No statement was ever made that I would get out of this. The officer had treated me belligerently and with extreme disrespect. In fact, I begged the officer to allow me to call my daughter who was waiting for me to pick her up from her busstop.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted. By way of further answer, Respondent was mistaken as to the 20 day time limit and this matter seems to be on going with regard to the behavior and subsequent arrest of the officer, John Fronzoni, in another matter. My counsel, Melissa McCafferty had me provide a subpoena duces tecum in response to inconsistent and untruthful statements made by John Fronzoni in Respondent's criminal case and License Appeal hearing.

16. Admitted. Please see response to paragraph 15

In September of 2013, Respondent successfully had a forfeiture action, Commonwealth of PA v. \$10,059 that had been prosecuted by Edwardsville Police Office John Fronzoni dismissed before the Honorable J. Sklarosky, Jr. Officer Fronzoni arrested Respondent about five weeks from the dismissal of the forfeiture action that Officer Fronzoni was pursuing against a client of mine. The day that Respondent was sick and Officer Fronzoni arrested me, Respondent, he was extremely rude and belligerent to me. I was sick and I was in fear that my daughter would be stranded at the busstop. The Officer took nearly six months to file his charges and Respondent had information that the officer had not acted lawfully.

On December 22, 2014, Officer Fronzoni told untruths under oath at my License Suspension hearing. Two weeks later, the local press released that Officer Fronzoni was under arrest for Obstruction of a medical scene and of Justice for his behavior that occurred only hours before he testified against me. I only found out this week that the now disgraced officer, had further charges lodged against him stemming from that incident.

I honestly thought that I had until my License Appeal had been heard before I notified this committee of the charges. I also contracted influenza and conjunctivitis as well as my son contracting influenza subsequent to my plea. I also have had family difficulties which I know should not interfere with my duty as an officer of the Court. The Officer was then arrested and removed from the police force and I was awaiting the results from the subpoena my counsel wanted to serve in connection to his questionable testimony. His treatment of me, whether I had committed a crime or not was abhorrent.

I respect my duties as an attorney and an officer of the Court. I had no intent of withholding my criminal charges from the Bar. I should have done an initial letter and then a follow up letter. I apologize and am very sorry I missed the deadline to notify the bar. Thank you so much for your consideration in this matter. It is greatly appreciated.

Very truly yours,



Elizabeth J. Bartolai

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LUZERNE

Magisterial District Number: 11-3-09

MDJ Hon. JAMES E. TUPPER  
Address: 11 CARVERTON ROAD  
TRUCKSVILLE, PA 18708

Telephone: (570)696-4488



POLICE CRIMINAL COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT:

(NAME and ADDRESS)

ELIZABETH <small>First Name</small>	JENNIFER <small>Middle Name</small>	BARTOLAI <small>Last Name</small>	<small>Gen.</small>
220 BEAUPLAND RD BEAR CREEK, PA 18602			

NCIC Extradition Code Type

- |  |   |  |  |
|--|---|--|--|
| <input type="checkbox"/> 1 - Felony Full               | <input type="checkbox"/> 5 - Felony Pend.                     | <input checked="" type="checkbox"/> C - Misdemeanor Surrounding States | <input type="checkbox"/> Distance: _____ |
| <input type="checkbox"/> 2 - Felony Ltd.               | <input type="checkbox"/> 6 - Felony Pend. Extradition Oeterm. | <input type="checkbox"/> D - Misdemeanor No Extradition                |  |
| <input type="checkbox"/> 3 - Felony Surrounding States | <input type="checkbox"/> A - Misdemeanor Full                 | <input type="checkbox"/> E - Misdemeanor Pending                       |  |
| <input type="checkbox"/> 4 - Felony No Ext.            | <input type="checkbox"/> B - Misdemeanor Limited              | <input type="checkbox"/> F - Misdemeanor Pending Extradition Determ.   |  |

DEFENDANT IDENTIFICATION INFORMATION

Docket Number <b>CR 246-16</b>	Date Filed <b>06/29/2016</b>	OTN/LiveScan Number <b>T 815714-4</b>	Complaint/Incident Number <b>20160222M2242</b>	SID <b>33090544</b>	Request Lab Service? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
GENDER <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	DOB <b>05/21/1966</b>	POB	Add'l. DOB	Co-Defendants? <input type="checkbox"/>	
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown		ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown			
HAIR COLOR <input type="checkbox"/> Gry (Gray) <input checked="" type="checkbox"/> Red (Red/Aubn) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input type="checkbox"/> BRO (Brown) <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Ong (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Ink./Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> Bln (Blonde / Strawberry)					
EYE COLOR <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Blu (Blue) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> XXX (Unknown)					
Driver License	State <b>PA</b>	License Number <b>21957489</b>	Expires		DEFENDANT ID
DNA	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DNA Location		<b>12B</b>	
FBI Number	<b>576653KC7</b>		MNU Number	FBI IDENT ID	
Defendant Fingerprinted	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			<b>5</b>	<b>07</b>
Fingerprint Classification					

DEFENDANT VEHICLE INFORMATION

Plate # <b>LIZESQ</b>	State <b>PA</b>	Hazmat <input type="checkbox"/>	Registration Sicker (MM/YY) <b>00/</b>	Comm'l Veh Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. Same as Def. <input type="checkbox"/>
VIN <b>YS3DF58N0V2045294</b>	Year <b>1997</b>	Make <b>SAAB</b>	Model	Style <b>4D</b>	Color <b>GREEN</b>		

Office of the attorney for the Commonwealth  Approved  Disapproved because: \_\_\_\_\_  
(The attorney for the Commonwealth may require the complaint, arrest warrant affidavit, or both, be approved by the attorney for the Commonwealth prior to filing. See PA. R. Crim. P 307.)

(Name of the attorney for the Commonwealth - Please Print or Type)

(Signature of the attorney for the Commonwealth)

(Date)

I, **P.O. BERNARD POSTEN**  
(Name of the Affiant)

of **KINGSTON TOWNSHIP POLICE DEPARTMENT**  
(Identify Department or Agency Represented and Political Subdivision)

do hereby state:

1.  I accuse the above named defendant who lives at the address set forth above  
 I accuse the defendant whose name is unknown to me but who is described as \_\_\_\_\_

I accuse the defendant whose name and popular designation are unknown to me and whom I have therefore designated as John Doe or Jane Doe

with violating the penal laws of the Commonwealth of Pennsylvania at [ **220** ] **KINGSTON TOWNSHIP**  
(Subdivision Code) (Place/Political Subdivision)

**MEMORIAL HGWY & HILLSIDE RD, TRUCKSVILLE**

in **LUZERNE** County [ **40** ] on or about **22 FEBRUARY 2016 AT 1500 HRS.**  
(County Code) (Offense Date)

**5112/41213**

PSYMPDETIC - Assigned Affiant ID Number & Badge #

**PA0405100**

(Police Agency ORI Number)

Exhibit D



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>06/29/2016</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160222M2242</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>JENNIFER</b>	Last <b>BARTOLAI</b>

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered 1 through 3.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of Assembly, or in violation of the statutes cited. (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

\_\_\_\_\_ 6/29/2016  
(Date)

\_\_\_\_\_ *Bernard R. [Signature]*  
(Signature of Affiant)

AND NOW, on this date 6-29-16 I certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

\_\_\_\_\_ **11-3-09**  
(Magisterial District Court Number)

\_\_\_\_\_ *[Signature]*  
(Issuing Authority)





# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>06/29/2016</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160222M2242</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>JENNIFER</b>	Last <b>BARTOLAI</b>

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.  
 (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits 204 PA §§ 213. - 213.7.)

Inchoate Offense	<input checked="" type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
------------------	---	---	---

Lead?	<input checked="" type="checkbox"/>	1	3802	A1	of the	75	1	M		
		Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number <b>F0509026</b>	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	------------------------------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):  
**DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED**

Acts of the accused associated with this Offense:  
**DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE-GENERAL IMPAIRMENT** The Actor, Jennifer Elizabeth Bartolai, on or about, 02/22/2016, in the County of Luzerne, drove, operated or was in actual physical control of the movement of a vehicle, namely, a green Sabb bearing PA registration LIZESQ, upon a highway or trafficway, namely, Hillside road near Church Road, of the Commonwealth, after imbibing a sufficient amount of alcohol or controlled substance such that the individual was rendered incapable of safely driving, operating, or being in actual physical control of the movement of the vehicle, in violation of Section 3802 (a)(1) of the Pennsylvania Vehicle Code, Act 24 of 2003 75 Pa. C.S. 3802(a)(1)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
------------------	--	---	---

Lead?	<input type="checkbox"/>	2	780-113	A311	of the	35	1	M		
		Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):  
**PROHIBITED ACTS; PENALTIES**

Acts of the accused associated with this Offense:  
**PENALTIES - POSSESSION OR DISTRIBUTION OF A SMALL AMOUNT OF MARIJUANA** The Actor, Jennifer Elizabeth Bartolai, on or about, 02/22/2016, in the County of Luzerne, possessed a small amount of marijuana only for personal use, in violation of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(31)(i)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
------------------	--	---	---

Lead?	<input type="checkbox"/>	3	780-113	A32	of the	35	1	M		
		Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code

PennDOT Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
------------------------------	-----------------	--------------------------------------	------------------------------------

Statute Description (include the name of statute or ordinance):  
**PROHIBITED ACTS ; PENALTIES**

Acts of the accused associated with this Offense:  
**PROHIBITED ACTS; PENALTIES - POSSESSION OF DRUG PARAPHERNALIA** The Actor, Jennifer Elizabeth Bartolai, on or about, 02/22/2016, in the County of Luzerne, not being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, nor a practitioner registered or licensed by the appropriate State Board, used or possessed with intent to use drug paraphernalia, namely, wax paper baggie, for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, namely, heroin, in violation of Section 13(a)(32) of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(32)



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>06/29/2016</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160222M2242</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>JENNIFER</b>	Last <b>BARTOLAI</b>

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/> Lead?	<b>4</b>	<b>1543</b>	<b>B1</b>	of the	<b>75</b>	<b>1</b>	<b>S</b>		
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone					
Statute Description (Include the name of statute or ordinance): <b>DRG LIC SUS/REV PURS TO SEC 3802/1547B1</b>									

Acts of the accused associated with this Offense:  
**DRIVING WHILE OPERATING PRIVILEGE IS SUSPENDED OR REVOKED - DUI RELATED** The Actor, Jennifer Elizabeth Bartolai, on or about, 02/22/2016, in the County of Luzerne, drove a motor vehicle, namely, green Sabb bearing PA registration LIZESQ, on a highway or trafficway, namely, "Hillside Road near Church Road, of this Commonwealth after the commencement of a suspension, revocation or cancellation of the operating privilege as a condition of acceptance of Accelerated Rehabilitative disposition for a violation of Section 3802 (relating to driving under the influence of alcohol or controlled substance) or the former section 3731, or because of a violation of Section 1547(b)(1) (relating to suspension for refusal) or 3802 or former section 3731, or is suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section 3802 or former section 3731, and before the operating privilege had been restored, in violation of Section 1543(b)(1) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 75 Pa. C.S. 1543(b)(1)

Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/> Lead?	<b>5</b>	<b>780-113</b>	<b>A16</b>	of the	<b>35</b>	<b>1</b>	<b>M</b>		
PennDOT Data (If applicable)	Accident Number	<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone					
Statute Description (Include the name of statute or ordinance): <b>PROHIBITED ACTS ; PENALTIES</b>									

Acts of the accused associated with this Offense:  
**POSSESSION OF CONTROLLED SUBSTANCE, DRUGS, DEVICE OR COSMETIC** The Actor, Jennifer Elizabeth Bartolai, on or about, 02/22/2016, in the County of Luzerne, knowingly or intentionally possessed a controlled or counterfeit substance, namely, 3 white pills identified as Oxycodone / Acetaminophen 10/325 mg, the said actor not then and there being registered under the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, or a practitioner registered or licensed by the appropriate State Board, in Violation of Section 13(a)(16) of the Controlled Substance, Drug, Device and Cosmetic Act, Act of April 14, 1972, as amended, 35 P.S. 780-113(a)(16)





**POLICE CRIMINAL COMPLAINT**

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Defendant Name	First <b>ELIZABETH</b>	Middle <b>JENNIFER</b>	Last <b>BARTOLAI</b>

**AFFIDAVIT OF PROBABLE CAUSE**

On 02/22/2106 at approximately 1500hrs I, Officer Posten of the Kingston Township Police Department was dispatched to the area of Memorial Highway near the rock cut for a report of a Green Sabb Bearing Pennsylvania registration LIZESQ, that the caller was all over the road almost hitting guard rails. The caller stated the vehicle made a left onto Hillside Road. At approximately 1508hrs I received a dispatch that another caller reported that a Green Sabb traveling on Hillside road struck a wall after the farms and then pulled over.

I arrived in the area and observed a female standing next to a green in color Sabb bearing Pennsylvania registration LIZESQ. I observed the green Sabb to have passenger side damage that appeared to be fresh and recent. I made contact with the female and asked her for her identification. She stated that she does not have it with her and her previous DUI was reversed. I advised her that I didn't understand what she was talking about and again asked her for her identification. She then stated she did not have it with her and handed me a court paper. I advised her that I was not interested in her previous case and again asked her for her identification. She then stated she did not have it with her and would provide me her name and date of birth. She provided me with the name Elizabeth Bartolai. I asked Bartolai what was going on and she stated her asshole boyfriend won't come help her with her car. I asked her what happened and she stated that she was driving and got a flat tire. I asked her who was driving the car and she stated, "I was." I asked her what she struck with the vehicle and she began crying and stated her boyfriend will not come help her. While speaking with her I observed Bartolai to be unsteady on her feet and unable to stay still. She would stutter step and wave her arms for balance. Due to her unsteady gate I asked her to sit back in the vehicle. I observed her eyes glossy and her pupils to be pin pointed. I observed her speech to be slurred and mumbled. She appeared disoriented, had trouble paying attention, and answering my questions.

Officer Rinehimmer from Dallas Police Department arrived on scene. Rinehimmer then asked Bartolai if she would perform Field Sobriety Tests to which she agreed. Rinehimmer then instructed Bartolai the directions for a SFST. Officer Rinehimmer then conducted the field sobriety tests. Officer Fuches of the Kingston Township Police Department arrived on scene. He asked Bartolai if she had identification on her to which she stated, "yeah my license is in my purse." He then asked her if it was ok for him to go to her vehicle and retrieve it from her purse. She stated, "ok." Officer Fuches then went to her vehicle to obtain her identification. At the conclusion of the field sobriety tests she became irate and started walking towards the vehicle. She then went to the driver's side of the vehicle and opened the driver's side door. I observed an oval white pill marked "IP204" on the driver's side seat and a wax paper baggie commonly used to store heroin on the driver's side floor. I then advised her to

I, **P.O. BERNARD POSTEN (5112)**, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

*Bernard K. Posten*  
(Signature of Affiant)

Sworn to me and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_  
6-29-16 Date \_\_\_\_\_, Magisterial District Judge

My commission expires first Monday of January

COMMONWEALTH OF PENNSYLVANIA  
DISTRICT COURT 11-3-08  
JAMES E. TUPPER, DIST. JUDGE 11-3-08  
KINGSTON TOWNSHIP, LUZERNE COUNTY  
MY COMMISSION EXPIRES DEC. 31, 2017

SEAL



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>06/29/2016</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160222M2242</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>JENNIFER</b>	Last <b>BARTOLAI</b>

## AFFIDAVIT of PROBABLE CAUSE CONTINUATION

step away from the driver's side door. Due to my observations, training, and experience I believed Bartolai to be incapable of safe driving. I advised Bartolai that she was under arrest and to place her hands behind her back. Officer Rinehimmer then observed an odor of marijuana in the vehicle. Officer Rinehimmer observed several small rolled cigarillos containing suspected marijuana commonly referred to as "roaches" in the open ash tray. I then took the ashtray and its contents as evidence. I observed approximately two other pills, a green and yellow pill marked "TML0.4", and a round white pill marked "Dan Dan 5442", on the driver's side floor. I observed a silver container containing several pills of different size, color, and shape in her purse. I then took all items into my custody to be logged as evidence.

I transported Bartolai to Geisinger Wyoming Valley hospital for the chemical test of blood. I then asked her to submit the chemical test of blood and read her the DL-26 Chemical test warnings form in its entirety. She then refused the chemical test of blood. I placed her in the back of my patrol vehicle and transported her back to my station. I then read her Miranda warnings to which she signed and agreed to speak with me. I asked her where she was coming from and she stated Scranton. I asked her if she consumed any alcoholic beverages to which she stated no. I asked her if she took any medications to which she stated that she took Zoloft, Lamital. I asked her when the last time she took those medications to which she stated approximately 7am. Plymouth Borough Police Officer Holly Stull then arrived at my station to conduct a search on Bartolai's person. The search was conducted and Officer Stull of found two White Pills with the marking "IP204" in Bartolai's left front pocket. Bartolai then smiled and stated, "If I knew they were there I would have swallowed them." I then photographed and logged all items into evidence.

On 03/28/2016 evidence 16-0000042, 16-0000041, and 16-0000040 were released to Northern tier Employee George Hockenbury, who transported the evidence to Northern tier Research for analysis. Michael J. Coyer the laboratory Director concluded that evidence marked 16-0000040 to be 2.18g burnt vegetable matter to be identified as Cannabis (marijuana). Evidence marked 16-0000042 to be 3 white tablets marked "IP204" identified as Oxycodone/Acetaminophen 10/325mg.

I respectfully request the above named defendant, Jennifer Elizabeth Bartolai be charged with the violations listed with in this criminal complaint.

 15-12  
(Signature of Affiant)



COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF LUZERNE



POLICE CRIMINAL COMPLAINT  
COMMONWEALTH OF PENNSYLVANIA

VS.

DEFENDANT:

(NAME and ADDRESS)

Magisterial District Number: 11-1-06

MDJ Non. DAVID BARILLA

Address: 67S MAIN STREET  
SWOYERSVILLE, PA 18704

Telephone: (570)287-2341

<b>BARILLA</b>	<b>J</b>	<b>BARILLA</b>
220 BEAUFIELD RD		
PO BOX 261		
BEAR CREEK, PA 18602		

NCIC Entry and NCIC Report Year

<input type="checkbox"/> 1 - Felony Full	<input type="checkbox"/> 4 - Felony No Ext.	<input type="checkbox"/> B - Misdemeanor Limited	<input type="checkbox"/> E - Misdemeanor Pending
<input type="checkbox"/> 2 - Felony Ltd.	<input type="checkbox"/> 5 - Felony Pend.	<input type="checkbox"/> C - Misdemeanor Surrounding States	<input type="checkbox"/> Distance: _____
<input type="checkbox"/> 3 - Felony Surrounding States	<input type="checkbox"/> A - Misdemeanor Full	<input type="checkbox"/> D - Misdemeanor No Extradition	

DEFENDANT IDENTIFICATION INFORMATION

Docket Number <b>CR 97-16</b>	Date Filed <b>2016-05-09</b>	OTN/UseScan Number <b>T 791361-4</b>	Complaint/Incident Number <b>20160429M4024</b>	SID	Request Lab Service? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
GENDER <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	DOB <b>05/21/1966</b>	POB	Add'l. DOB	Co-Defendants? <input type="checkbox"/>	
AKA		First Name	Middle Name	Last Name	Gen.
RACE <input checked="" type="checkbox"/> White <input type="checkbox"/> Asian <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Unknown					
ETHNICITY <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Unknown					
HAIR COLOR <input type="checkbox"/> Gry (Gray) <input type="checkbox"/> Red (Red/Aubn) <input type="checkbox"/> SDY (Sandy) <input type="checkbox"/> BLU (Blue) <input type="checkbox"/> PLE (Purple) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Ong (Orange) <input type="checkbox"/> WHI (White) <input type="checkbox"/> XXX (Ink./Bald) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> Bln (Blonde / Strawberry)					
EYE COLOR <input type="checkbox"/> Blk (Black) <input type="checkbox"/> Blu (Blue) <input checked="" type="checkbox"/> BRO (Brown) <input type="checkbox"/> GRN (Green) <input type="checkbox"/> GRY (Gray) <input type="checkbox"/> HAZ (Hazel) <input type="checkbox"/> MAR (Maroon) <input type="checkbox"/> PNK (Pink) <input type="checkbox"/> MUL (Multicolored) <input type="checkbox"/> XXX (Unknown)					
Driver License	State <b>PA</b>	License Number <b>21957489</b>	Expires <b>05/22/2018</b>		
Sex	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		DNA Location		
FBI Number					
Defendant Fingerprinted	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
Fingerprint Classification					

DEFENDANT VEHICLE INFORMATION

Plate # <b>LIZESQ</b>	State <b>PA</b>	Hazmat <input type="checkbox"/>	Registration Sticker (MMYY) <b>11/16</b>	Comm'l Veh Ind. <input type="checkbox"/>	School Veh. <input type="checkbox"/>	Oth. NCIC Veh. Code	Reg. Same as Def. <input type="checkbox"/>
VIN <b>YS3DF58N0V2045294</b>	Year <b>1997</b>	Make <b>SAAB</b>	Model	Style <b>4D</b>	Color <b>GREEN</b>		

Office of the attorney for the Commonwealth  Approved  Disapproved because: \_\_\_\_\_

[The attorney for the Commonwealth may require the complaint, arrest warrant affidavit, or both, be approved by the attorney for the Commonwealth prior to filing. See PA, R. Crim. P 307.]

(Name of the attorney for the Commonwealth - Please Print or Type)

(Signature of the attorney for the Commonwealth)

(Date)

I, <b>PTLM CRAIG CEBRICK</b> <small>(Name of the Affiant)</small>	<b>5457/42885</b> <small>PSYPROBIC - Assigned Affiant ID Number &amp; Badge #</small>
of <b>LARKSVILLE POLICE DEPARTMENT</b> <small>(Identify Department or Agency Represented and Political Subdivision)</small>	<b>PA0401900</b> <small>(Police Agency ORI Number)</small>
do hereby state:	
<input checked="" type="checkbox"/> I accuse the above named defendant who lives at the address set forth above	
<input type="checkbox"/> I accuse the defendant whose name is unknown to me but who is described as _____	
<input type="checkbox"/> I accuse the defendant whose name and popular designation are unknown to me and whom I have therefore designated as John Doe or Jane Doe	
with violating the penal laws of the Commonwealth of Pennsylvania at [ <b>416</b> ] <b>LARKSVILLE</b> <small>(Subdivision Code) (Place-Political Subdivision)</small>	
<b>975 MOUNTAIN RD LARKSVILLE</b>	
in <b>LUZERNE</b> County [ <b>40</b> ] on or about <b>29 APRIL 2016 AT 1655 HRS.</b> <small>(County Code)</small>	

Exhibit E



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed	OTN/LiveScan Number	Complaint/Incident Number
	2016-05-09		20160429M4024
Defendant Name	First	Middle	Last
	ELIZABETH	J	BARTOLAI

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically.  
 (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINs) should not be listed. If the identity of an account must be established, list only the last four digits 204 PA §§ 213. - 213.7.)

<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input checked="" type="checkbox"/> Lead?	1	3802	D2	75	1	M		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone							
Statute Description (include the name of statute or ordinance): <b>DRIVING UNDER THE INFLUENCE CONTROLLED SUBSTANCE</b>								

Acts of the accused associated with this Offense:  
**DRIVING UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE -CONTROLLED SUBSTANCE**  
 75 Pa. C.S. 3802(d)(2).  
 On or about Friday April 29, 2016 at approximately 16:55 hours, the actor, ELIZABETH J BARTOLAI DOB 05-21-1966, unlawfully drove, operated or was in actual physical control over the movement of a vehicle in the area of MOUNTAIN ROAD LARKSVILLE, PA 18651, Luzerne County, Pennsylvania, while under the influence of any drug or combination of drugs to a degree which impaired the actor's ability to drive safely.

<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/> Lead?	2	1543	B1.1.iii	75	1	M1		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone							
Statute Description (include the name of statute or ordinance): <b>3RD OR SUBSEQUENT OFFENSE</b>								

Acts of the accused associated with this Offense:  
**3RD OR SUBSEQUENT OFFENSE - The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 16:55 hours, in the County of Luzerne, who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when the person's operating privilege is suspended or revoked as a condition of acceptance of Accelerated Rehabilitative Disposition for a violation of section 3802 or former section 3731 or because of a violation of section 1547(b)(1) or 3802 or former section 3731 or is suspended under section 1581 for an offense substantially similar to a violation of section 3802 or former section 3731 upon a third or subsequent violation of this paragraph shall constitute a misdemeanor of the first degree, and upon conviction thereof the person shall be sentenced to pay a fine of \$5,000 and to undergo imprisonment for not less than two years., that is to say the actor, , in violation of Section 1543 (B) (1) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 18 Pa.C.S. 1543 (B) (1)**

<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
<input type="checkbox"/> Lead?	3	3742.1	A	75	1	M2		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code	
<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone							
Statute Description (include the name of statute or ordinance): <b>ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY</b>								

Acts of the accused associated with this Offense:  
**ACCIDENTS INVOLVING DEATH OR PERSONAL INJURY WHILE NOT PROPERLY LICENSED** The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 16:55 hours, in the County of Luzerne drove a motor vehicle, namely, Green SAAB bearing PA Registration LIZESQ, on a highway or trafficway, namely, MOUNTAIN ROAD LARKSVILLE, PA 18651 , of this Commonwealth while operating privilege was disqualified, cancelled, recalled, revoked or suspended and while not holding applicable endorsements for the type and class of vehicle being operated, caused an accident resulting in injury of any person.



# POLICE CRIMINAL COMPLAINT

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Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

<input checked="" type="checkbox"/> <b>Aggravated Assault</b> 18 901 A	<input type="checkbox"/> <b>Attempt</b> 18 901 A	<input type="checkbox"/> <b>Solicitation</b> 18 902 A	<input type="checkbox"/> <b>Conspiracy</b> 18 903				
<input type="checkbox"/> <b>Lead?</b>	<b>4</b>	<b>3714</b>	<b>75</b>	<b>1</b>	<b>S</b>		
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> <b>Safety Zone</b>		<input type="checkbox"/> <b>Work Zone</b>		
Statute Description (include the name of statute or ordinance): <b>CARELESS DRIVING</b>							

Acts of the accused associated with this Offense:  
**CARELESS DRIVING** The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 16:55 hours , in the County of Luzerne, drove a vehicle, namely, Green SAAB bearing PA Registration LIZESQ , on a highway or trafficway, namely, MOUNTAIN ROAD LARKSVILLE, PA 18651 , in careless disregard of the safety of persons or property, in violation of Section 3714 of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 75 Pa. C.S. 3714

<input checked="" type="checkbox"/> <b>Aggravated Assault</b> 18 901 A	<input type="checkbox"/> <b>Attempt</b> 18 901 A	<input type="checkbox"/> <b>Solicitation</b> 18 902 A	<input type="checkbox"/> <b>Conspiracy</b> 18 903				
<input type="checkbox"/> <b>Lead?</b>	<b>5</b>	<b>3736</b>	<b>A</b>	<b>75</b>	<b>1</b>	<b>S</b>	
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> <b>Safety Zone</b>		<input type="checkbox"/> <b>Work Zone</b>		
Statute Description (include the name of statute or ordinance): <b>RECKLESS DRIVING</b>							

Acts of the accused associated with this Offense:  
**RECKLESS DRIVING** The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 16:55 hours , in the County of Luzerne, drove a vehicle, namely, Green SAAB bearing PA Registration LIZESQ , on a highway or trafficway, MOUNTAIN ROAD LARKSVILLE, PA 18651 , in willful or wanton disregard for the safety of persons or property, in violation of Section 3736(a) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as amended, 75 Pa. C.S. 3736(a)

<input checked="" type="checkbox"/> <b>Aggravated Assault</b> 18 901 A	<input type="checkbox"/> <b>Attempt</b> 18 901 A	<input type="checkbox"/> <b>Solicitation</b> 18 902 A	<input type="checkbox"/> <b>Conspiracy</b> 18 903				
<input type="checkbox"/> <b>Lead?</b>	<b>6</b>	<b>3301</b>	<b>A</b>	<b>75</b>	<b>1</b>	<b>S</b>	
Offense #	Section	Subsection	PA Statute (Title)	Counts	Grade	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> <b>Safety Zone</b>		<input type="checkbox"/> <b>Work Zone</b>		
Statute Description (include the name of statute or ordinance): <b>DRIVING ON RIGHT SIDE OF ROADWAY</b>							

Acts of the accused associated with this Offense:  
**DRIVING ON RIGHT SIDE OF ROADWAY** The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 16:55 hours , in the County of Luzerne, drove a motor vehicle, namely, Green SAAB bearing PA Registration LIZESQ , on a highway or trafficway, namely, MOUNTAIN ROAD LARKSVILLE, PA 18651 , and did fail to drive on the right half of the roadway which was sufficient width, in violation of Section 3301(a) of the Pennsylvania Vehicle Code, Act of June 17, 1976, as ammended, 75 Pa. C.S. 3301(a)



# POLICE CRIMINAL COMPLAINT

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Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>
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<input type="checkbox"/> Inchoate Offense	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903
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<input type="checkbox"/> Lead?	<b>7</b>	<b>3309</b>		of this	<b>75</b>	<b>1</b>	<b>S</b>		
	Offense #	Section	Subsection		PA Statute (Title)	Counts	Grade	HCIC Offense Code	UCR/NIBRS Code

Permit Data (if applicable)	Accident Number	<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone
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Statute Description (include the name of statute or ordinance):  
**DRIVING ON ROADWAYS LANED FOR TRAFFIC**

Acts of the accused associated with this Offense:  
Title: 75 Sec: 3309 Descr: DRIVING ON ROADWAYS LANED FOR TRAFFIC The Actor, ELIZABETH J BARTOLAI DOB 05-21-1966 , on or about, Friday April 29, 2016 at approximately 18:55 hours , in the County of Luzerne, drove a vehicle, namely, Green SAAB bearing PA Registration LIZESQ , on a highway or trafficway, MOUNTAIN ROAD LARKSVILLE, PA 18651 , failing to be driven as nearly as practicable entirely within a single lane and being moved from the lane before the driver has first ascertained that the movement can be made with safety, in violation of Section 3309 (1) of the Pennsylvania Vehicle Code.



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Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of section 4904 of the Crimes Code (18 PA C.C. 4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered 1 through 4.

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of Assembly, or in violation of the statutes cited. (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

MAY 9, 2016 (Date) PTCM [Signature] 5457 (Signature of Affiant)

AND NOW, on this date May 9, 2016 certify that the complaint has been properly completed and verified. An affidavit of probable cause must be completed before a warrant can be issued.

11-1-06  
(Magisterial District Court Number)

[Signature]  
(Issuing Authority)







**POLICE CRIMINAL COMPLAINT**

Docket Number	Date Filed <b>2016-05-09</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160429M4024</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

**AFFIDAVIT of PROBABLE CAUSE**

On Friday April 29, 2016 I, PTLM CRAIG CEBRICK was on duty as a Police Officer for the BOROUGH OF LARKSVILLE. I was in full uniform and operating a fully marked patrol vehicle equipped with emergency lights and audible siren. At approximately 16:55 hours I was dispatched by Luzerne County 911 to the area of 975 MOUNTAIN RD for report of a two (2) car Motor Vehicle Collision with rollover and entrapment. At this time I requested Luzerne County to dispatch LARKSVILLE FIRE and EMS to the scene. I also requested EDWARDSVILLE PD be dispatched to the scene to shut down the top of MOUNTAIN RD.

I arrived on scene at approximately 16:58 hours and observed a Green SAAB bearing PA Registration LIZESQ (Unit 1) at rest on the shoulder or berm of the Westbound lane of the roadway, facing Westbound. Unit 1's passenger front corner was resting against the embankment and the rear driver's side of Unit 1 was partially in the lane of travel. I observed Unit 1's front and passenger side front corner to have heavy damage. Heavy contact damage was observed on Unit 1's passenger side front corner (1 o'clock position), indicating that initial impact took place at this location on Unit 1. At this time I requested PLYMOUTH PD also respond to the scene to shut down the bottom of the the mountain on WASHINGTON AVE.

I then observed a Gray CHEVROLET SILVERADO bearing PA Registration ZHK-1302 (Unit 2), at rest and overturned against a tree in the front yard of 975 MOUNTAIN RD facing Eastbound. I observed Unit 2 to have heavy contact damage on the passenger side just behind the passenger side front tire (2 o'clock position) indicating initial impact. Further contact damage was observed along Unit 2's passenger side from the initial impact point to the rear passenger side tire (4 o'clock position). I observed the guide rail on the Eastbound side of the roadway to have sustained damage consistent with a vehicle rolling over the top of the guide rail. I also observed tire marks on the guide rail that matched the tread pattern of Unit 2. Secondary contact damage was observed on Unit 2 on the passenger side door (3 o'clock position), indicating point of secondary impact and point of rollover for Unit 2.

At this time I began to attempt to locate the driver of the CHEVROLET as the call was dispatched as entrapment. I then located the driver of the CHEVROLET (Unit 2) standing at the edge of the yard of 975 MOUNTAIN RD and identified him as KENNETH SEROKA. SEROKA advised me that he was able to crawl out of his overturned vehicle (Unit 2). At this time I advised Fire Department personnel on scene that there was no longer entrapment. SEROKA began to advise me that while travelling Westbound on MOUNTAIN RD that he observed the SAAB (Unit 1) travelling Eastbound

I, PTLM CRAIG CEBRICK (5457), BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

PTLM *[Signature]* 5457  
(Signature of Affiant)

Sworn to me and subscribed before me this 5-9-16 Date *[Signature]* Day of May, 2016, Magisterial District Judge

My commission expires first Monday of January, Dec. 31, 2017





# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>2016-05-09</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160429M4024</b>
Defendant Name:	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

## AFFIDAVIT of PROBABLE CAUSE CONTINUATION

towards him in the Westbound lane of travel. SEROKA stated that he attempted to take evasive action by swerving left towards the Eastbound lane in an attempt to avoid impact with the SAAB (Unit 1). SEROKA stated that at this time his CHEVROLET (Unit 2) was struck by the SAAB (Unit 1) in the Westbound lane of travel. SEROKA advised me that upon impact his vehicle began to spin, with the rear of the CHEVROLET (Unit 2) spinning up the mountain Westbound now in the Eastbound lane of travel. SEROKA stated that his vehicle (Unit 2) then struck the guide rail on the shoulder of the Eastbound side of the roadway impacting the passenger side of the CHEVROLET (Unit 2). SEROKA advised me that his vehicle then rolled over the guide rail, and overturned in the front yard of 975 MOUNTAIN RD before coming to rest against the tree. SEROKA would later be evaluated by LARKSVILLE EMS, but would sign off stating that he will have his wife take him to the hospital.

I then made contact with the driver of the SAAB (Unit 1) and identified her as ELIZABETH BARTOLAI DOB 05-21-1966 from a previous encounter. BARTOLAI advised me that while travelling Eastbound on MOUNTAIN RD that she observed a squirrel run into the roadway. BARTOLAI stated that she swerved to avoid running over the squirrel but stated that she did not cross over into the Westbound lane of travel. I then asked BARTOLAI how the heavy damage to the passenger side front of her vehicle occurred to which she stated that the damage was already there. While speaking with BARTOLAI I observed her to be unsteady on her feet and at certain times during speaking with her to be swaying back and forth. I also observed BARTOLAI to have droopy eyes and to be slurring her words. I then requested BARTOLAI to provide me with her license, registration, and proof of insurance. BARTOLAI began to state that her license is going to return as suspended DUI Related, but that it should not be as she has an appeal with PENNDOT for her license being suspended. I again had to request BARTOLAI to provide me with her license, registration, and proof of insurance. BARTOLAI again began to become distracted, still failing to provide me with her information. BARTOLAI also was observed to have a lethargic demeanor and appeared to be unable to focus on what I was asking. I then had to request BARTOLAI provide me with her information a third time. At this time LARKSVILLE EMS approached BARTOLAI stating that they needed to evaluate her. BARTOLAI at this time began to walk away towards the Ambulance as I requested a fourth time for BARTOLAI to provide me with her information. The fourth request of BARTOLAI for information seemed to be ignored as she did not respond and continued to walk towards the Ambulance. As BARTOLAI had walked away and still had not provided me with her information, I requested Luzerne County 911 to process BARTOLAI'S driver information open through her name that returned on Unit 1's registration plate. Luzerne County 911 advised me that BARTOLAI'S driver's license was currently Suspended DUI Related.

While BARTOLAI was being evaluated by LARKSVILLE EMS, I began to conduct an investigation of the collision scene. I observed scars on the roadway in the Westbound lane of travel. The scars on the roadway were in the form of a scrape and scratch marks indicating a direction of travel of Eastbound in the Westbound lane. The scrape mark on the roadway contained a wider portion with a rib mark, connected to a recessed rib and short flat portion. The scrape on the roadway would later be matched to the oil pan of BARTOLAI'S vehicle (Unit 1). The oil pan on BARTOLAI'S vehicle (Unit 1) has a wider portion with a rib towards the driver's side, connected to a recessed rib and shorter flat portion towards the passenger side. The oil pan was observed to be scraped and shiny in appearance matching the exact shape of the scrape mark in the roadway. This scrape mark being matched to BARTOLAI'S vehicle (Unit 1) indicates that point of initial impact was in the Westbound lane. This scrape mark also indicates that BARTOLAI'S vehicle (Unit 1) was travelling Eastbound in the Westbound lane of travel when initial impact occurred from BARTOLAI'S vehicle (Unit 1) striking the CHEVROLET (Unit 2).

Upon BARTOLAI being evaluated by LARKSVILLE EMS, BARTOLAI signed off and refused treatment at the scene. I then requested BARTOLAI to walk towards my fully marked patrol vehicle so that I may speak with her further. While BARTOLAI was walking towards my patrol vehicle, I observed her to still be unsteady on her feet, stumbling as she was walking. At this time I had to again ask BARTOLAI to provide me with her license, registration, and proof of insurance. BARTOLAI again began stating that she has an appeal with PENNDOT about her driver's license being suspended DUI Related. I again advised BARTOLAI that I still needed to see her license, registration and proof of insurance. At this time BARTOLAI began looking through her purse and pulled out her wallet. BARTOLAI began looking through her wallet for her driver's license. I observed BARTOLAI to pass over her driver's license twice while looking for it. BARTOLAI was finally able to remove her driver's license from her wallet and handed me her driver's license, a registration card, and two pink slips which were crumbled up. The driver's license BARTOLAI provided me had two holes punched into it. BARTOLAI still failed to provide me with her insurance information. At this time BARTOLAI again began to state that she has an appeal with PENNDOT about her suspended driver's license. I then had to request BARTOLAI again provide me with her insurance information. At this time BARTOLAI provided me with her insurance information.

*D.P. 5-9-16*



# POLICE CRIMINAL COMPLAINT

Docket Number	Date Filed <b>2016-05-09</b>	OTN/LiveScan Number	Complaint/Incident Number <b>20160429M4024</b>
Defendant Name	First <b>ELIZABETH</b>	Middle <b>J</b>	Last <b>BARTOLAI</b>

## AFFIDAVIT of PROBABLE CAUSE CONTINUATION

I then requested BARTOLAI to submit to testing for impairment. BARTOLAI agreed stating that she was as sober as the day is long. I then proceeded to place BARTOLAI in position to begin field sobriety exercises. BARTOLAI was given instruction and was placed into position to begin observing her eyes for Horizontal Gaze Nystagmus. Both pupils were of equal size and were able to track my stimulus. BARTOLAI exhibited all six indication of Nystagmus, Lack of Smooth Pursuit in both eyes, Distinct and Sustained Nystagmus at Maximum Deviation in both eyes, and Nystagmus was present Prior to Onset of 45 Degrees in both eyes. Throughout the exercise, instruction had to be repeated to BARTOLAI. BARTOLAI had to be told during the exercise to only follow my stimulus with her eyes and not to move her head. BARTOLAI also had to be told during exercise to keep her arms at her side as she had placed her arms behind her back. Due to BARTOLAI'S inability to perform the exercise adequately and inability to follow instruction, BARTOLAI was subsequently placed under arrest for the Suspicion of Driving Under the Influence of Alcohol or a Controlled Substance. The additional field exercises were unable to be conducted as the grade of the roadway and shoulder of the roadway would not allow for a level surface. The only level surface within reasonable distance was deemed unsafe as it was where Unit 2 was overturned.

I then transported BARTOLAI from the scene to GEISINGER WYOMING VALLEY (GWV) with starting mileage 55321. I then arrived at GWV with BARTOLAI with ending mileage 55332.

BARTOLAI was asked to submit to a BLOOD ALCOHOL CONCENTRATION (BAC) test. In the presence of GWV Security, BARTOLAI was read verbatim PENNDOT DL-26 Chemical Test Warning Sheet, in its entirety. BARTOLAI then refused Chemical Testing stating "What I am on is none of your business." BARTOLAI would again refuse medical treatment while on scene at GWV.

BARTOLAI was then transported from GWV to the LARKSVILLE POLICE STATION with starting mileage 55332. I then arrived at the LARKSVILLE POLICE STATION with BARTOLAI to await her ride so that she could be released. While at the LARKSVILLE POLICE STATION awaiting BARTOLAI'S ride, she began to mention to me about being personal friends with Pennsylvania State Police Troopers. BARTOLAI also stated to me that she was friend's with Judge Hughes, and began talking about how she had recently been hanging out with Judge Hughes. BARTOLAI'S ride would later arrive and she was released.

On Sunday May 8, 2016 I, PTLM CRAIG CEBRICK made contact with KENNETH SEROKA in regards to this incident. I advised SEROKA that I was following up with him in regards to if he had received medical treatment after the collision on April 29th. SEROKA stated that he did go to the emergency room upon leaving the collision scene and was treated for injury sustained during the collision.

PTLM  5457  
(Signature of Affiant)

D.B. 5-9-16



Law Office of Elizabeth J. Bartolai  
Judicial Center, Suite 212  
100 North William-Barre Blvd  
Wilkes-Barre, Pennsylvania 18712

ELIZABETH J. BARTOLAI  
Petitioner

VS.

COMMONWEALTH OF PA

DEPARTMENT OF TRANSPORTATION :  
BUREAU OF DRIVER LICENSING :

Respondent

: IN THE COURT OF COMMON PLEAS

OF LUZERNE COUNTY

CIVIL ACTION- LAW

LICENCE SUSPENSION APPEAL

8671

No. of 2016

FILED  
PROTHONOTARY  
LUZERNE COUNTY  
2016 AUG 19 AM 9:48

**PETITION FOR ALLOWANCE OF APPEAL**

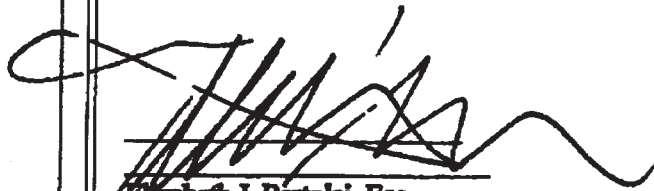
**TO THE HONORABLE JUDGES OF SAID COURT:**

1. Your Petitioner is Elizabeth J. Bartolai, an adult individual who resides , Luzerne County, Pennsylvania.
2. Commonwealth of Pennsylvania, Department of Transportation, Bureau of Driver Licensing, is the Respondent.
3. The United States Supreme Court now requires a warrant to draw blood which was not obtained in this case .

**WHEREFORE, your Petitioner respectfully requests the following relief:**

- a. That the within Appeal be allowed by your Honorable Court and a Supersedeas issued; and
- b. That a hearing on said Appeal be held at a Miscellaneous Hearing Court for the purpose of determining whether the Order of the Commonwealth of Pennsylvania,

Department of Transportation, Bureau of Drivers Licensing is just and proper.



Elizabeth J. Bertolai, Esq.  
Jewelcor Center, suite 212  
100 North Wilkes-Barre Blvd  
Wilkes-Barre, PA 18702  
(570) 829-5579

Attorney I.D. # 62355

ELIZABETH J. BARTOLAI, ESQUIRE  
Law Office of Elizabeth J. Bartolai  
Jewelry Center, Suite 212  
188 North Williams-Barre Blvd  
Williams-Barre, Pennsylvania 16782

ELIZABETH J. BARTOLAI  
Petitioner

VS.

COMMONWEALTH OF PA  
DEPARTMENT OF TRANSPORTATION  
BUREAU OF DRIVER LICENSING  
Respondent

IN THE COURT OF COMMON PLEAS  
OF LUZERNE COUNTY

CIVIL ACTION- LAW

LICENCE SUSPENSION APPEAL

8671  
No. of 2016

FILED  
PROTHONOTARY  
LUZERNE COUNTY  
2016 AUG 19 AM 9:58

**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR  
APPEAL FROM ORDER OF DEPARTMENT OF TRANSPORTATION  
SUSPENDING OPERATOR'S LICENCE**

**HISTORY OF THE CASE**

The instant appeal is from the notification of the suspension of the driving privilege of Petitioner Elizabeth J. Bartolai for failing to undertake a blood analysis. The police officer claims that Petitioner failed the retestment test. He insisted that Petitioner accompany him to get a chemical test. Petitioner had gotten in an accident on blind curve on a narrow road. The police did not see Petitioner driving. If the police officer claims that Petitioner has a staggered gate, Petitioner has four pounds of titanium in her leg and often limps. Petitioner is on prescription medication but they do not affect Petitioner's ability to drive but Psychiatrist changed Petitioner's medication after the accident.

## LAW AND ARGUMENT

A police officer must have "reasonable grounds" to suspect a driver is under the influence. In the present case the police officer not witness Petitioner driving. Additionally, the officer did not smell alcohol on Petitioner, nor did he administer a breath analyzer. A police officer has a duty to inform a suspect that refusal to submit to chemical testing will result in the suspension of one's driving operating privileges. 75 Pa.C.S. Section 1547(b).

The United States Supreme Court in Birchfield v. North Dakota, concluded that the drawing and testing of an individual's blood, suspected of driving under the influence, a search is within the protection of the Fourth Amendment, and therefore a warrant to be issued prior to the search. Even in cases where consent was signed by a suspect granting authorities to draw a suspect's blood, the search (drawing of the blood) still required a warrant, for the search to be constitutional.

The United States Supreme Court ruled that even if a Defendant signed a consent form for the blood draw, if a warrant was not procured before the blood draw, it violates the Constitution under Birchfield.

The only remedy sufficient to preserve and respect the Constitutional rights of Petitioner is to vacate the DUI related suspension.

## CONCLUSION

WHEREFORE The only remedy sufficient to preserve and respect the Constitutional rights of Petitioner is to vacate the DUI related suspension.

Respectfully submitted,



Elizabeth J. Bartolai, Esq.  
Jewelcor Center, suite 212  
100 North Wilkes-Barre blvd  
Wilkes-Barre, PA 18702  
(570) 829-5579

Attorney I.D. # 62355

Attorney for Petitioner

ELIZABETH J. BARTOLAI, ESQUIRE

IN THE SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel, : Complaint File Nos. C3-16-334, C3-16-340,  
Petitioner :  
 :  
 : C3-16-599, C3-16-661 and C3-16-662  
v. :  
 :  
 :  
Elizabeth Jennifer Bartolai, : Attorney Registration No. 62355  
Respondent :  
 :  
 : (Luzerne County)

**AFFIDAVIT**

**COMMONWEALTH OF PENNSYLVANIA :**

**COUNTY OF DAUPHIN :**

1. I, Kristin A. Wells, state that I am Disciplinary Counsel for the Office of Disciplinary Counsel, Disciplinary Board of the Supreme Court of Pennsylvania, and authored the Petition for Emergency Temporary Suspension in the above captioned matters.
2. Lowell R. Kratzer, Auditor-Investigator for the Office of Disciplinary Counsel, Disciplinary Board of the Supreme Court of Pennsylvania, was assigned by me to personally serve Respondent, Elizabeth Jennifer Bartolai, with the Petition for Emergency Temporary Suspension, pursuant to Section 89.22 of the Rules of Disciplinary Board.
3. The following information was provided to me by Mr. Kratzer concerning his attempt to serve Respondent:
  - a. On October 3, 2016, at 10:14 A.M., Mr. Kratzer visited Respondent's law office located at Jewelcor Center, Suite 212, 100 North Wilkes-Barre Boulevard, Wilkes-Barre, Pennsylvania, in an attempt to serve the Petition.
  - b. Respondent was not in her office, so Mr. Kratzer slid a copy of the Petition in a sealed envelope, addresses to her attention, under the doorway.
  - c. On October 3, 2016, at 10:52 A.M., Mr. Kratzer visited Respondent's home located at 220 Beaupland Road, Bear Creek,

PA, and met with Respondent's husband, Geno Bartolai. He advised that he and Respondent had split and her whereabouts was unknown, but she could be reached at 570-829-5579.

d. On October 3, 2016, at 11:03 AM, Mr. Kratzer called Respondent at 570-829-5579; Respondent answered and indicated that she was en route to visit her sick mother at a hospital in the State of New York.

e. Mr. Kratzer advised Respondent that he had slid a package under her law office doorway which was time sensitive. Respondent assured Mr. Kratzer that she would take care of the matter at her earliest convenience and sign a letter of acceptance for the paperwork. Mr. Kratzer told her that the acceptance form was enclosed in the package.

4. On October 12, 2016, at 6:42 A.M., I received a voicemail message from Respondent, wherein she acknowledged receipt and review of the Petition for Emergency Temporary Suspension.

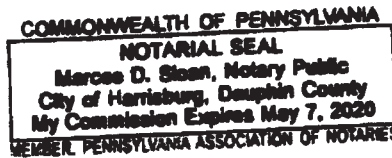
Kristin A. Wells  
Kristin A. Wells  
Disciplinary Counsel  
District III

October 12, 2016  
Date

Sworn to and subscribed before me this

12<sup>th</sup> day of October, 2016.

Marcus D. Sloan



**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2310 Disciplinary Docket No. 3  
: :  
Petitioner : ODC File Nos. C3-16-334, 340, 599, 661,  
: and 662  
: :  
v. : Attorney Registration No. 62355  
: :  
ELIZABETH JENNIFER BARTOLAI : (Luzerne County)  
: :  
Respondent :  
:

**ORDER**

**PER CURIAM**

AND NOW, this 23<sup>rd</sup> day of November, 2016, in the absence of a response to this Court's Rule to Show Cause why Respondent should not be placed on temporary suspension, the Rule is made absolute. It is provided that:

1. Respondent is placed on temporary suspension until further definitive action by this Court;
2. Respondent shall comply with the provisions of Pa.R.D.E. 217;
3. The President Judge of the Court of Common Pleas of Luzerne County shall enter such orders as may be necessary to protect the rights of Respondent's clients or fiduciary entities with which she is involved, see Pa.R.D.E. 217(g); and
4. All financial institutions in which Respondent holds fiduciary funds shall freeze such accounts pending further action.



Respondent's rights to petition for dissolution or amendment of this order and to request accelerated disposition of charges underlying this order pursuant to Pa.R.D.E. 208(f)(6), are specifically preserved.

This Order constitutes an imposition of public discipline pertaining to confidentiality. See Pa.R.D.E. 402.