

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

EARLY BIRD CAR WASH, INC.,	: NO. CV-2021-00448
MR. BIRD’S CUSTOM CAR WASH	:
EQUIPMENT, LLC, and MICHAEL J.	:
EARLY,	:
Plaintiffs,	:
	:
vs.	:
	: CIVIL ACTION - LAW
DEAN PIERMATTEI and RHOADS &	:
SINON, LLP,	:
Defendants.	: Motions for Recusal

ORDER ON MOTION FOR RECUSAL FILED SEPTEMBER 16, 2025

And now, this 4th day of February, 2026, the Court notes as follows:

This matter came before the Court on both October 29, 2024, and February 12, 2025, on Plaintiffs’ Supplemental Motion for Sanctions and to Extend Discovery Deadline, filed August 30, 2024, and Defendants’ Countermotion for Sanctions, filed September 24, 2024. Counsel for all parties appeared, along with a representative of the Plaintiffs. Although the Complaint was filed on May 17, 2021, this matter has been mired in contentious discovery. Discovery disputes culminated in the Opinion and Order of the Honorable Eric R. Linhardt dated September 18, 2023, and a subsequent deficiency letter from Plaintiff’s counsel to Defendants dated September 25, 2023. The discovery dispute continued, and the parties sought further judicial intervention. That resulted in the scholarly twenty-one (21) page Opinion and Order of the Honorable Eric R. Linhardt filed May 13, 2024. Thereafter, Plaintiffs’ counsel sent to the Defendants another deficiency letter dated June 18, 2024. The Opinion and Order of May 13, 2024, notwithstanding, the parties have filed the Motions referenced above, together with extensive briefs.

After the hearing conducted on October 29, 2024, the Court entered its Opinion and Order dated and filed on October 31, 2024. In that Order, this Court observed that Plaintiffs’ claims of legal malpractice are directed against a defunct law firm, and that Plaintiffs seek electronic discovery from long-decommissioned computer file servers. The Court speculated that at least some material sought by the Plaintiffs has been lost to the passage of time.

In the Order of October 31, 2024, the Court directed that, on or before November 15, 2024, Plaintiff's counsel was to identify to Defendant's counsel particular documents sought, particular interrogatory questions served but not yet answered, and particular areas of inquiry for which a deposition of an authorized representative of Defendant was to occur. The Order further directed Defendant's counsel to respond on or before December 20, 2024, providing documents and providing answers to interrogatories, unless the responses were subject to privilege. The Order further directed Defendant's counsel to provide the name and professional address of each witness who is in a position to provide a material answer to each area of inquiry. The Order of October 31, 2024, further directed the parties to cooperate in good faith in an effort to complete discovery on or before January 31, 2025, and scheduled an evidentiary hearing on the cross-motions for sanctions for 9:00 a.m. on February 12, 2025, limited to the claims of the parties for sanctions.

On February 12, 2025, Plaintiffs introduced the testimony of Phillip J. Binotto, Esquire. Further, Plaintiffs introduced Exhibits 1 and 2 in support of Plaintiffs' Supplemental Motion for Sanctions. At the conclusion of Attorney Binotto's testimony, the Court received oral argument on scheduling issues, and entered its Order of February 12, 2025, continuing the hearing to a later date and time. The Court conducted the continued hearing on May 12, 2025.

At the conclusion of the hearing conducted on May 12, 2025, counsel for Defendants presented the Court with a manila folder containing three (3) paper copies of photographs of the Court with Kenneth Horoho and Andrew Susko, and one small (4x6) photograph taken of Thomas Golden, Michael Reed, Kenneth Horoho and the Court. All of the individuals in all of the photographs are Past Presidents of the Pennsylvania Bar Association (hereinafter "PBA"). The Court regards all of those individuals as friends, although Judge Golden is now deceased. It was the impression of the Court that the photographs were a gift from Kenneth Horoho, who was one of the PBA Past Presidents in the photographs. **No party or counsel appeared to be concerned with the photographs when presented to the Court on May 12, 2025, and no objection was raised until September 16, 2025.**

On September 12, 2025, the Court entered its Opinion and Order on Plaintiffs' Supplemental Motion for Sanctions and to Extend Discovery Deadline, filed August 30, 2024,

and Defendants' Countermotion for Sanctions, filed September 24, 2024. Two business days later, Plaintiffs filed a Motion to Recuse this Court, asserting that Past PBA President Kenneth Horoho is a friend of the Court, and is also a partner in the law firm that represents the Defendants. Oral argument on that Motion was conducted on February 3, 2026. On September 18, 2025, the Court filed a Disclosure Statement which included the following fifteen (15) number paragraphs:

1. The Court (hereinafter "Carlucci") served on the Pennsylvania Bar Association Board of Governors for approximately ten (10) years during the period 1993 through 2006.
2. Carlucci was a "Presidential Officer" of the Pennsylvania Bar Association (hereinafter "PBA") during the period 2003 through 2007, including PBA President during the period of 2005-2006.
3. Kenneth Horoho, Esquire (hereinafter "Horoho") was PBA President during the year 2006-2007 (the year during which Carlucci was Immediate Past President).
4. As a result of joint participation in PBA leadership, Carlucci has regarded Horoho, Esquire as a friend since at least 2000.
5. As Presidential Officers of the PBA, Carlucci and Horoho periodically represented the PBA at meetings of the American Bar Association. At one such meeting in Salt Lake City, Utah, in approximately 2003, Carlucci and Horoho took a tour of the museum known as the "Beehive House." Some weeks later, Horoho advised Carlucci that representatives of the Mormon Church appeared at his home, asking to meet with "Brother Ken." Thereafter, Carlucci has occasionally addressed Horoho as "Brother Ken," in remembrance of that event.
6. Carlucci and Past PBA President Michael Reed and Horoho once attended a funeral in Pittsburgh, Pennsylvania, as representatives of the PBA.
7. Horoho has never appeared before Carlucci as a party or witness or counsel.
8. Carlucci has never participated with Horoho in any matter in the practice of law, nor has Carlucci and Horoho ever had any business relationship.
9. Carlucci has no personal knowledge of the members of the law firm of Horoho, nor does Carlucci have any recollection of ever being present during any legal proceeding in which Horoho participated as counsel to any party.
10. Carlucci has never been a guest in the home of Horoho, nor has Horoho been a guest in the home of Carlucci.
11. Carlucci met with PBA Presidential Officers, including Horoho, prior to the Annual Dinner of the Lycoming Law Association, during the year when Carlucci was PBA

President (2006). That Dinner was attended by representatives of PBA professional staff, and three other PBA Presidential Officers, including Horoho

12. Carlucci recalls meeting with Horoho in approximately 2020 at the Williamsport Starbucks, for approximately thirty (30) minutes, on a day when Horoho happened to be in Williamsport. Carlucci has no recollection of attending any other social event with Horoho, other than bar association activities.
13. Carlucci has had no contact with Horoho other than chance meetings at PBA activities, since approximately 2020. The Past Presidents of the PBA meet for lunch every other year as guests of the PBA. Horoho has rarely attended those luncheons.
14. Carlucci has never been a party to any discussion regarding this litigation with the parties or counsel to the parties other than scheduled Court proceedings.
15. Carlucci has never discussed this litigation with Horoho, nor does Carlucci have any reason to believe that Horoho will have any involvement in this litigation.

During the oral argument conducted on February 3, 2026, Plaintiff's counsel asserted that the conduct of counsel for Defendant on May 12, 2025, in presenting the Court with a manila folder containing three (3) paper copies of photographs of the Court with Kenneth Horoho and Andrew Susko, and one small (4x6) photograph taken of Thomas Golden, Michael Reed, Kenneth Horoho and the Court, constitutes an appearance of impropriety for the Court. This Court does not share that conclusion, and enters the following Findings of Fact:

1. The relationship between the Court and Kenneth Horoho, Esquire is fully set forth in the fifteen (15) number paragraphs set forth above.
2. All of the individuals in the photograph and copies which form the basis for the Motion to Recuse are Past Presidents of the Pennsylvania Bar Association (hereinafter "PBA"). The Court regards all of those individuals as friends, although Judge Golden is now deceased. It was the impression of the Court that the photograph and copies were a gift from Kenneth Horoho, who was one of the PBA Past Presidents in the photographs.
3. No party or counsel appeared to be concerned with the photographs when presented to the Court on May 12, 2025, and no objection was raised until September 16, 2025.

4. This Court has never had any professional relationship with Kenneth Horoho, Esquire, and has never participated as counsel or as the Court in any legal proceeding involving Kenneth Horoho, Esquire.
5. This Court has only ever practiced law with offices in Lycoming County, and did not regularly engage in the practice of family law (until taking the bench).
6. It is the understanding of the Court that Kenneth Horoho, Esquire, has practiced family law in Allegheny County, and continues to do so.
7. Counsel for Defendant assures the Court that Kenneth Horoho, Esquire, has never participated in this matter, and will never do so.
8. The parties have advised the Court that this matter will be resolved by a jury trial, which is likely to require approximately five (5) to seven (7) trial days. Thus, this Court will not be the finder of fact in this matter.
9. The former President Judge of Lycoming County was not retained in the election in November 2025, with the result that Lycoming County has only four (4) sitting commissioned judges (one vacancy).
10. Two (2) of the four (4) commissioned Lycoming County judges currently manage criminal matters, and one (1) other manages family law, domestic relations, juvenile matters, and Children and Youth matters. The undersigned manages civil matters and orphan's court matters. Therefore, recusal of this Court in any significant civil matter is likely to place a significant administrative burden upon another judge.

And now, this 4th day of February, 2026, for the reasons more fully set forth above, Plaintiff's Motion for Recusal filed September 16, 2025, is **DENIED**.

BY THE COURT,

William P. Carlucci, Judge

cc: Court Administrator

Frank C. Botta, Esq., Ralph C. Surman, Jr., Esq.

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