

IN THE COURT OF COMMON PLEAS OF WESTMORELAND COUNTY, PA  
ORPHANS' COURT DIVISION

IN RE: )  
 )  
ESTATE OF MARCUS W. BORTZ, ) No. 65-10-1863  
 )  
deceased. )

**WRITTEN CLOSING ARGUMENT OF PETITIONER,  
IRMA J. McDIVITT**

IF IT PLEASE THE COURT:

This case presents the intriguing question concerning under what circumstances a wife, at the conclusion of a consensual separation for a period of 15 years, can refuse for a period of 11 additional years to reunite with her spouse, and still claim that intentional desertion under Section 2106(a) of the PEF Code has not occurred.

Section 2106(a) of the Probate, Estates and Fiduciaries Code (20 Pa. C.S.A. § 2106(a)) provides as follows:

A spouse who, for one year or upwards previous to the death of the other spouse, has willfully neglected or refused to perform the duty to support the other spouse, or who for one year or upwards has willfully and maliciously deserted the other spouse, shall have no right or interest under this chapter in the real or personal estate of the other spouse.

(Emphasis added.)

In Fisher Estate, 276 A.2d 516, 518-19 (Pa., 1971), the Pennsylvania Supreme Court interpreted the statutory predecessor to § 2106(a), containing relevant identical language, as follows:

[a ] presumption has developed in this Commonwealth that a spouse's desertion, without cause or consent, will be presumed to be willful and malicious within the meaning of Section 6(b) [of the Intestate Act of 1947]. [Citations omitted]

The Court held that a desertion is “without cause or consent” if there is evidence that 1) the spouse intended to desert; 2) the separation was non-consensual; and 3) the deserting spouse did not have legal cause to do so. Fisher Estate at 519-520. Finally, the Court held that a “legal cause” for the purposes of desertion is a cause sufficient to entitle the deserting spouse to obtain a divorce. Fisher Estate at 520.

A fair and reasonable review of the evidence in this case should lead this Court to conclude that, while her initial separation from her husband from 1984 to 1999 may have been consensual, Marguerite Bortz deserted her husband, Marcus Bortz, beginning in 1999, after the death of Marcus’ mother, and she did not have “cause or consent “ to do so. The Petitioner believes that the trial record contains the evidence required by Fisher Estate to sufficiently prove that Marguerite’s continuing separation from Marcus beginning in 1999 was “without cause or consent”.

The Bortz’s were married in 1962. After their marriage, they moved into the family farmhouse located on the Bortz farm, and resided there with Marcus’ parents, and younger sister. During this time, Marcus worked the farm with his father, but Marguerite did not work outside of the home.

Marguerite testified that after about three years, a confrontation occurred with her mother-in-law about Marguerite leaving the farm to visit friends without first informing her, and her mother-in-law announcing that Marguerite was “not our kind of people”. Marguerite also believed that, in connection with this incident, her mother-in-law had stolen her wedding rings.

As a result of this confrontation, the couple separated for the first time, with Marguerite moving to Florida to live with her parents, with Marcus’s consent. She further testified that she

agreed to return to Pennsylvania to continue her marriage with Marcus, only if Marcus secured a place for them to live off of the farm and away from her in-laws. After about six months, Marcus rented a small house in Saltsburg and Marguerite returned to Pennsylvania. The couple then lived in the rented house in Saltsburg for 11 years, apparently without incident.

Then, after accepting an invitation from her in-laws to attend Thanksgiving dinner, the difficulties with her in-laws were resolved to the extent that Marguerite agreed to live with Marcus on the Bortz farm in a house trailer located somewhat removed in distance from the family farmhouse. She and Marcus lived in the trailer for 8 additional years until about 1984.

A neighbor, who lived on the farm located next to the Bortz farm at the time, testified that during this 8 year time period, Marguerite was not satisfied with living with Marcus in the trailer on the farm, and she referred to the trailer as her "chicken coop". She told the neighbor that she longed to live in a place of her own located off of the farm.

The opportunity to do so presented itself in 1984, when Marcus admitted to having an affair with a co-worker. The effect of this disclosure on Marguerite's then-living arrangements was immediate- she called her mother to advise her of Marcus' affair, and asked if she could return home to Florida to live with the family. Upon receiving a positive response, Marguerite moved to Florida to live with family members.

However, about three months after moving to Florida to live, Marguerite's father passed away. Marcus traveled to Florida to attend the funeral and while there, he told Marguerite that he had terminated the affair with his co-worker, and he apologized to her and sought her forgiveness. In response, Marguerite forgave Marcus for his infidelity, but this reconciliation did not result in Marguerite returning to Pennsylvania to resume living with Marcus as husband and wife. Rather, according to her testimony, she and Marcus agreed that she would remain living in

Florida and that, upon the death of Marcus' last surviving parent (which ended up being his mother), she would return to live with Marcus in Pennsylvania. The record indicates that, although the initial reason for the separation and Marguerite's moving to Florida was Marcus' affair, her failure to return to Pennsylvania immediately upon accepting Marcus' apology was the continuing "difficulties" with her mother-in-law, Florence Bortz.

The only reason given by Marguerite at trial for the "continuing difficulties" with her mother-in-law was her belief that her mother-in-law had been opening and reading her mail while she was living in the trailer with Marcus, and occasionally calling her to comment on its content. While the trial testimony of Ronald McDivitt, Marcus' nephew, casts considerable doubt upon the truthfulness of Marguerite's testimony in this regard<sup>1</sup>, the parties nevertheless agreed that they would in the future reunite and live together as husband and wife once Marcus' parents had both died.

Accordingly, in this case, the initial separation of Marguerite and Marcus beginning in 1984 was consensual. However, Petitioner contends that Marguerite deserted Marcus, when she refused, despite their agreement, to return to live with him upon the occurrence of his mother's death in 1999, and that her desertion of him without cause or consent continued until Marcus's own death in 2010. The Petitioner contends that the evidence in this case establishes that Marguerite, beginning in 1999, intended to desert Marcus, that he did not consent to her desertion, and that she had no legal cause to desert him.

At trial, Marguerite argued that, despite their long physical separation, because they nevertheless kept in contact with each other in various ways, including one visit by Marcus to Florida in 1988, and possibly one other visit by him of an uncertain date, and one visit by

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<sup>1</sup> Ronald McDivitt testified that, while having lunch at the farm house on a daily basis, he regularly observed Marcus opening Marguerite's mail; Mr. McDivitt was working at the farm during the time period when Marcus and Marguerite were living in the trailer.

Marguerite to Pennsylvania in 1996, and by phone calls and by occasionally sending gifts to each other, they were never really ever “separated”.

With regard to phone calls, Marguerite testified that they spoke by phone “frequently”, but at trial, she did not produce any phone records documenting any calls between 1984 and 1999<sup>2</sup>. Based on the phone records documenting calls from 2009 to 2010, which were introduced into evidence at trial, they spoke relatively infrequently, and certainly not everyday, as one would expect of a married couple

With regard to gifts, while Marguerite primarily mailed food items (homemade ginger bread, Florida fruit, and specialty cakes) to Marcus at Christmas, Marcus occasionally sent her gifts of glassware primarily for major holidays, which were described by Marguerite as “antique glassware.” In all, over 26 years of their separation, Marguerite received approximately only 35 such gift items. He also sent her flowers on a few occasions as well as money.

The types of gifts exchanged between the Bortz’ over their long separation is important in the context of Marguerite’s stated position in this case-that they were a married couple, who were unfortunately living apart but were still in love and intending to reunite. However, the only gifts sent by Marguerite to Marcus over their long separation were food items-Florida fruit, gingerbread and cakes-the type of impersonal gifts one would expect to be sent on holidays to business colleagues, casual acquaintances or distant relatives, but not a husband! The gifts of glassware sent by Marcus to Marguerite over the years were likewise impersonal in nature, and relatively few in number over the many years of their separation, and, as such, this pattern of gift giving between them is inconsistent with a loving married couple who intended on reuniting in

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<sup>2</sup> She did produce phone records from 2008 to 2010, which established that they spoke by phone on only 20 occasions in 2008, 25 times in 2009 and 20 times in 2010.

the future. The Court should ask: would a loving, committed, married but temporarily separated couple consistently send such gifts to each other?

While one would expect more frequent face to face contact such spouses, four years passed after their separation in 1984 before they saw each other face to face again. Marcus did not travel to Florida to visit Marguerite until 1988. The record shows that he visited her in Florida that year for a short time and afterwards sent gifts of glassware to Marguerite and to her brother and sister.

Marguerite was not certain whether Marcus visited her again in Florida around that time, but he may have visited her in 1990. If true, this was an additional lapse of two years without seeing each other.

Then, another six years passed before they saw each other again when Marguerite returned to Pennsylvania in 1996 for the purpose of consulting with a doctor because she believed she had contracted Lyme's Disease. This was her only visit back to Pennsylvania for any reason prior to the death of Marcus' mother in 1999.

Thus, from the date of their separation in 1984 until the death of Florence Bortz in 1999, Marcus and Marguerite saw each other face to face as the result of only two visits with each other, and possibly three, over the course of 15 years. For a couple who was still in love and intended on one day to reunite, this is a dismal record.

To complete this sequence regarding visitation, another nine years went by (1996-2005) before they saw each other again, when Marguerite flew to Pittsburgh in October, 2005 with her brother and sister and stayed in Pennsylvania for about a week<sup>3</sup>. This trip to Pennsylvania was

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<sup>3</sup> During the 2005 visit, Marguerite stayed at the Comfort Inn with her sister, instead of with Marcus. She saw him on several days only in the evening and while in the company of her brother and sister, and not at all on October 10.

motivated at least in part by the fact that her brother was returning to Pittsburgh to attend a church conference, which occurred in Pennsylvania annually.

In October, 2006, Marguerite travelled again with her brother to Pennsylvania, but this time by car, in order for her brother to again attend an annual church conference, during which time she visited with Marcus for about one week<sup>4</sup>.

All told, the record in this case establishes that Marguerite travelled to Pennsylvania to visit Marcus only three times in the 26 years after their separation in 1984 and prior to his death. After 1984, Marcus travelled to Florida to visit with Marguerite on one occasion and possibly two. In all, this separated couple at most travelled to visit one another on only five occasions in 26 years.

Marguerite testified that in 1996, she visited the office of Dr. Joseph located near Cranberry, Pennsylvania, to consult with him for suspected Lymes Disease.<sup>5</sup>

Although this medical consultation was important enough for Marguerite to travel from Florida to Pennsylvania, her first trip to Pennsylvania in 12 years, Marguerite did not ask Marcus to pick her up at the airport or accompany her to the medical appointment. Instead, an old friend, Elaine More', picked Marguerite up at the airport and accompanied her to the appointment. This conduct is completely inconsistent with how a loving, married, but temporarily separated couple would act in the face of a suspected serious illness being experienced by one spouse. Under these circumstances, the healthy spouse would most certainly have collected the other spouse at the airport and accompanied her to the physician's office out of concern and to provide solace and

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<sup>4</sup> Remarkably, during the 2006 visit which lasted from October 11 to 18, 2006, Marguerite did not see Marcus every day of her one week visit. Rather, although arriving in Westmoreland County on October 11, she did not see him on October 12 and then not until the evening of October 13, and again not on October 16. On the other days of her visit, she "saw him" and he took her to dinner at night. She apparently did not spend any night with him that week. Such a visitation schedule would be reasonably expected to occur between virtual strangers, rather than a husband and wife.  
<sup>5</sup> No medical record was introduced by Marguerite at trial to support her contention that she had contracted Lyme's Disease or confirmed that she had any other disability.

support. However, a spouse who has experienced physical and emotional separation from the other for 12 years would not. The fact that Marguerite did not include Marcus in this important medical event is indisputable evidence that she did not view or treat him, even before the death of his mother, as a husband with whom she intended to reunite some day.

In this case, only after the medical appointment occurred did Marguerite visit with Marcus in Westmoreland County prior to her return to Florida. After so long a physical separation, from 1988 to 1996 (a period of 8 years), one would have expected that the Marcus and Marguerite would have spent every waking moment together during this visit by Marguerite to Pennsylvania. However, Elaine More' recalled at trial that Marcus only visited with Marguerite in the evenings after work. Again, such conduct is evidence that Marguerite did not view Marcus as a husband with whom she intended to reunite.

The medical records from Dr. Joseph's office are significant for two other reasons. First, the nursing notes made in May of 1996 contain a statement from Marguerite indicating that she was leaving on a trip the next morning, in contradiction of her trial testimony that, at the time, she was too ill to take trips to go anywhere. However, even more importantly, when Marguerite filled out a patient questionnaire which asked her to best describe her marital relationship with the following choices: "married", "divorced", "separated", or "widowed", she checked the box associated with the word "separated". As a result, in 1996, when asked to do so, Marguerite described the status of her relationship with Marcus as being separated, rather than being married. She offered no reason at trial for describing the status of her marriage in 1996 as being "separated".<sup>6</sup>

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<sup>6</sup> Imagine the wife of a soldier, separated from her husband for a significant period of time due to active military service, who, when given a choice on a document between reporting the status of her marital relationship as being "married" or "separated", would choose any other response other than as being married. Marguerite faced this exact choice and reported her marital status as separated!



These facts establish that Marguerite and Marcus were, in fact, physically separated from 1984 until 1999 and that, even **prior** to the death of Marcus' mother in 1999, Marguerite had no intention of ever leaving Florida to resume living with her husband. These facts also prove that, beginning in 1999 and continuing until his death, her physical separation from Marcus-her desertion of him-was intentional.

The latter of Marcus' parents, his mother, Florence Bortz, died on April 13, 1999. By their agreement reached in 1984, her death was the event which should have ended their 15 year physical separation. Marguerite testified that, from the moment of his mother' death and continuing until his own death, Marcus begged Marguerite to return to Pennsylvania to live with him as husband and wife. Based on this testimony alone, the Court should conclude that upon the death of his mother, Marcus no longer consented to their physical separation.

In Fisher Estate, a husband was found not to have consented to the separation with his wife, due to the fact that he "frequently asked [the wife] to return and was rebuffed." Fisher Estate at 519. Consequently, the second prong of the Fisher Estate evidence test-that the separation was not consensual-has been satisfied in this case.

Despite Marcus's insistence after his mother's death that Marguerite return to live with him, she refused to do so. Her testimony at trial was that each time Marcus asked her to come back to live with him in Pennsylvania, she told him that her medical condition and health prevented her from doing so<sup>7</sup>.

Beginning in 1999, Marguerite continued the charade of maintaining a marital relationship with him in the same manner as had occurred prior to the death of his mother. She controlled what little relationship remained between them by maintaining their physical

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<sup>7</sup> Although he could do nothing about Marguerite's refusal to resume living with him again, other than continuing to "beg her" to return, Marcus certainly did not consent to the continuing separation from his wife after his mother died.

separation, and she kept him hoping that she would someday reunite with him through occasional phone calls and the rare but impersonal gift of fruit or a cake, all the while accepting gifts of glassware, and occasional flowers and money from him.

Part of the charade, of course, was her claims that she suffered from a disabling illness or health which prevented them from reuniting. However, the record supports the conclusion that these claims were false. Marguerite's health did not prevent her from reuniting with Marcus after his mother's death in 1999. Marguerite failed to introduce at trial even one page of a medical record to document how her medical conditions prevented her from cohabitating again with her husband. To the contrary, the trial record establishes that, although she was disabled to some degree, she was nevertheless able to live a full and active lifestyle. For instance, in May, 1996, she left on a trip the day after speaking with a nurse at Dr. Joseph's medical office. Also, despite her disability, she was able to fly to Pennsylvania in 2005 and, during that visit drive a car to the Bortz farm from Greensburg, and have dinner in a restaurant each day. In 2006, she was able to travel as a passenger in a car during the round trip from Florida to Pennsylvania, and while in Pennsylvania, socialize and go out to dinner with Marcus and her family members throughout her visit.

The record establishes that she lived in Florida since 1984 without incident. She moved her residence, along with her siblings, at least twice. While her brother testified that he, as well as their sister, "helped her" occasionally, there was no testimony that Marguerite required anyone to assist her with all of the tasks of daily living. There was no testimony that a nurse, a physical rehabilitation specialist or any other medical professional was hired or needed to assist her on a day to day basis. It was never necessary for her to reside in an assisted living facility. Had they lived together after 1999, Marcus was perfectly capable of assisting her with her tasks

of daily living at least until shortly before his death in 2010. Her medical condition was never a reasonable cause for their separation from 1999 until his death.

The prospect in 1999 of returning to the Bortz farm or its environs to live with Marcus must have been a frightening thought to Marguerite. Rather than make the considerable effort to assist Marcus in securing or constructing living accommodations to suit their needs, it was much easier for her to claim that she could not live for health reasons in the two story farmhouse; or that her health prevented her from traveling; or that she was unable to care for him; or that he was unable to care for her; or that she could not cook for him; or that she was in considerable pain.

These excuses were bogus. The evidence establishes that until sometime in 2008, Marcus was able to work full time as a township supervisor and, at the same time, operate the Bortz farm. He would have been able to assist Marguerite in her day to day tasks of living. His constant requests for her to return to live with him in Pennsylvania indicates that he viewed her excuses as surmountable. There is no reason to believe that, if she had been willing at any time after 1999 to reunite with him, Marcus would have paid for and had constructed either on the farm or off of it, an adequate one floor home for them to live in together. His willingness to do so is proven by the statements attributed to him by Marguerite and by the various notes he sent to her after 1999. Marguerite recalls that after his mother died he continuously begged her to return to reside with him in Pennsylvania. In his hand written notes, he implores her to “please come and see me-I want to help you”; “I want to take care of you”; “think about what I told you” (referring to him wanting them to be together).

Marguerite knew that Marcus had the financial means to renovate or build an adequate home for them in Pennsylvania. She knew that he had inherited the family farm in 1999 upon

the death of his mother. She knew that he had received \$350,000 in 2008, as the result of his executing an agricultural restrictive easement. Yet, at no time prior to his death did she make any effort to secure adequate living arrangements for them or take steps to assist Marcus in doing so, despite having prior experience as a successful real estate agent in Pennsylvania. Marguerite could have flown to Pittsburgh at any time from 1999 until his death, and particularly in 2008<sup>8</sup>, and taken occupancy in a local hotel, and worked individually or with Marcus until she or they had successfully found or arranged to have constructed or rented living accommodations to suit both of them.

Instead, Marguerite continued to reject Marcus by telling him that they could not reunite and live together for various reasons-“I am disabled”; “I can’t take care of you”; “ I can’t cook any more”-none of these excuses were reasonable or adequate under the circumstances when made to Marcus and should not now be viewed as such by the Court.

The record begs the question: What efforts did Marguerite Bortz make on her own to reunite with her husband? The Bortz Estate is of considerable value. There were certainly funds available for the two of them to construct or rent independent living quarters or to renovate the existing farmhouse so that they could live together on one floor with facilities which would accommodate her disabilities.

Marguerite Bortz was a disabled person, but that did not prevent her from returning to Pennsylvania to live with her husband. She bore some responsibility to make that happen. She had the tools available to her to permit her to travel: a wheelchair, canes and crutches. She testified that she used the medical device which was most appropriate to her current medical condition to permit her to get around. Clearly, individuals with physical disabilities work and

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<sup>8</sup> Marcus Bortz died on August 30, 2010.

travel on a regular basis, primarily because under current federal law, accommodations must be made for them.

Marguerite failed to take any action whatsoever to reunite and live with her husband. She simply asserted for the 26 years after their separation that her “physical condition” prevented her from caring for Marcus or from travelling to Pennsylvania to live with him. By her own account, she waited until 2006 (7 years after they agreed to reunite) to tell Marcus that if he renovated the small house located on the farm property, or if he leased some appropriate house or apartment, she would return to Pennsylvania to live with him.<sup>9</sup> However, based on her own account, she took no steps herself to assist him in doing so. The Court should reasonably conclude that her testimony in this regard is untruthful and self serving. A loving wife who desired to reunite with her husband would not have waited 7 years to suggest such a plan to reunite them. A loving wife who desired to reunite with her husband would have done so on the very day Marcus’ mother died. In addition, such a claim on her part is dubious and self serving, given the fact that she was living at the time in an almost new, 4,000 square foot modern home, located in Alva, Florida, which she owned with her brother and which contained her own separate handicap accessible living quarters.

Finally, the real reason Marguerite would not agree to begin living with Marcus again after 1999 is clearly contained in the record. By 1999, Marguerite was already on disability and no longer working. Marcus, however, was working two full time jobs—one as an elected road supervisor for Salem Township, and one as the owner of the Bortz farm. As a result, in 1999, for Marcus and Marguerite to resume living together, Marguerite would have been required to return to Pennsylvania.

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<sup>9</sup> Marguerite also testified that she told Marcus that he could move to Florida live with her and her siblings. However, the subsequent testimony of her brother was that Marcus was only invited to visit, not to permanently move in with Marguerite.

However, Marguerite had other ideas. She began making plans for her permanent stay in Florida long before the death of her mother in law. She began making plans prior to 1999 with her brother to buy a parcel of real estate and to build a home for the both of them, as well as another sister, which would accommodate Marguerite's disabilities.<sup>10</sup> They purchased the real estate in Alva, Florida on October 18, 2000. Construction of the house began in 2002 and was completed in 2004. Photos of the house were introduced as evidence at trial. The home is breathtaking in appearance and size and, according to Marguerite, provides her with separate living quarters with many amenities to accommodate her disability.

In 1999, Marguerite was faced with the decision to return to PA to live with a husband from whom she had lived separate and apart for 15 years, during which time she saw him on at most three occasions, or to remain in Florida to live in a fabulous new home with her brother and sister, which was about to be constructed. Marguerite chose the latter and in doing so evidenced the intent to willfully abandon her husband. From 1999 to 2010, each time that she claimed to Marcus that her health prevented her from reuniting with him, Marguerite was being untruthful.

The simple fact is that each time Marcus begged her to return to Pennsylvania to live with him, Marguerite made the decision to choose Florida, her newly constructed home and her siblings over Marcus. Each time she put him off with concerns about her health, she evidenced her intention to continue her desertion of Marcus from 1999 until his death.

This evidence proves that Marguerite intentionally deserted Marcus. The act of remaining physically apart from Marcus, accompanied by the failure to return at any time, proves that she intentionally deserted Marcus. In Fisher Estate, a wife was found to have intentionally deserted her husband because she removed furniture from the residence and failed to return to reside with

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<sup>10</sup> This fact demonstrates that Marguerite knew that such construction could occur anywhere-even in Pennsylvania.

her husband at any time. 276 A.2d at 519. Consequently, the first prong of the Fisher Estate evidence test-that a spouse intended to desert the other-has been satisfied in this case.

In addition, Marguerite has cited no conduct on the part of Marcus as a legal justification for her refusal to resume living with him. Clearly, in 1999 and until his death, Marcus had given her no legal cause to obtain a divorce from her. Thus, the third prong of the Fisher Estate evidence test-that the absent spouse has no legal cause to desert-is likewise satisfied in this case.

As a result, because the evidence in this case satisfies all three prongs of the Fisher Estate evidence test, the Court should conclude that Marguerite Bortz remained separated from her husband for 11 years, beginning in 1999 and ending with his death in 2010, without cause or consent, and that her continued separation from him, despite his insistence that she return to Pennsylvania to live with him, was willful and malicious.

Marcus Bortz died a lonely and bitter man. He lived in squalor in the family farmhouse. At the end of his life, he defecated and urinated in a bucket on the first floor of his home to which he was restricted for health reasons. Other family members were required to care for him as he approached death. Marguerite Bortz, however, was totally unaware of his physical and mental condition prior to his death. She had refused to visit with him in Pennsylvania after her last visit in 2006. She testified that his death came as a shock to her, after he would not answer his phone, when she once again called him from Florida. She was not present to care for him or supervise his care in the last days of his life because she had abandoned him years earlier. She controlled what little relationship remained between them and kept him at a distance through occasional phone calls and the rare gift of fruit or a cake. When Marcus died, Mrs. McDivitt, Marcus' sister, did not even know how to contact Marguerite to inform her of his death. Marcus'

family assumed that Marcus and Marguerite had divorced, since Marcus had not mentioned her and no family member had seen or heard from her for over 26 years.

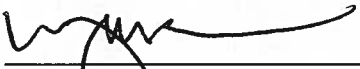
Ironically, after traveling to Pennsylvania on only three occasions in 26 years, Marguerite Bortz quickly and efficiently arranged for and boarded a plane bound for Pennsylvania on the very next day after she learned of Marcus' death. She did so to begin the process of claiming an inheritance-of the Bortz family farm and other assets titled only in Marcus' name-to which she is not entitled, based on her conduct, under Pennsylvania law.

**Conclusion**

Your Petitioner believes that due to the willful neglect, refusal to perform the duty to support, and willful and malicious desertion of Decedent by Respondent, as well as her willful refusal to return to the marital home after their apparent reconciliation, the Respondent has forfeited her intestate share, and that Petitioner, together with the Decedent's nieces, Deborah Zawelensky and Mary Lou Dudzinsky, are the intestate heirs of the Decedent.

Respectfully submitted,

DeBERNARDO, ANTONIONO,  
McCABE, DAVIS & DeDIANA, P.C.

By:   
\_\_\_\_\_  
William J. McCabe, Esquire  
Pa. I.D. #32618  
11 North Main Street  
Greensburg, PA 15601  
(724) 836-0700  
Attorney for Petitioner