

**KLINE & SPECTER**

*A Professional Corporation*

BY: SHANIN SPECTER, ESQUIRE  
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Nineteenth Floor  
1525 Locust Street  
Philadelphia, PA 19107  
(215) 772-1000

*Attorneys for Plaintiffs*

**MICHAEL J. GORETZKA, INDIVIDUALLY, :**  
**AS THE PARENT AND NATURAL :**  
**GUARDIAN OF MINORS, CHLOE :**  
**AND CARLIE GORETZKA, AND AS :**  
**ADMINISTRATOR OF THE :**  
**ESTATE OF CARRIE GORETZKA, :**  
**DECEASED :**  
23 West Hempfield Drive  
Irwin, PA 15642

**COURT OF COMMON PLEAS**  
**ALLEGHENY COUNTY**

**JURY TRIAL DEMANDED**

AND

**JOANN GORETZKA**  
405 Cowan Drive  
Elizabeth, PA 15037

**Plaintiffs,**

v.

**ALLEGHENY ENERGY, INC.**  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

AND

**ALLEGHENY POWER**  
800 Cabin Hill Drive  
Greensburg, PA 15601-1689

AND

**WEST PENN POWER COMPANY**

800 Cabin Hill Drive

Greensburg, PA 15601-1689

**Defendants.**

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:

**NOTICE TO PLEAD**

**NOTICE**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service  
Room 920, City County Building  
Pittsburgh, PA 15219  
(412) 261-2088

**ADVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

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AS THE PARENT AND NATURAL :  
GUARDIAN OF MINORS, CHLOE :  
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**COURT OF COMMON PLEAS  
ALLEGHENY COUNTY**

**JURY TRIAL DEMANDED**

**WEST PENN POWER COMPANY** :  
800 Cabin Hill Drive :  
Greensburg, PA 15601-1689 :  
:  
**Defendants.** :  
:

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**CIVIL ACTION COMPLAINT**

Plaintiff Michael Goretzka, individually, as the parent and natural guardian for minors Chloe Goretzka and Carlie Goretzka, and as Administrator of the Estate of Carrie Goretzka, deceased, and plaintiff JoAnn Goretzka, complain of defendants as follows:

**THE PARTIES**

1. Plaintiff Michael Goretzka, age 40, is an adult person and citizen of the Commonwealth of Pennsylvania, residing therein at 23 West Hempfield Drive, Irwin, Pennsylvania 15642.
2. Plaintiff Michael Goretzka is the Administrator of the Estate of Carrie Goretzka, deceased, having been so appointed by the Register of Wills of Westmoreland County on June 12, 2009. See Short Certificate attached hereto as Exhibit "A."
3. Chloe Goretzka, age 4, is a minor and citizen of the Commonwealth of Pennsylvania, residing therein at 23 West Hempfield Drive, Irwin, Pennsylvania 15642.
4. Carlie Goretzka, age 2, is a minor and citizen of the Commonwealth of Pennsylvania, residing therein at 23 West Hempfield Drive, Irwin, Pennsylvania 15642.
5. Plaintiff-decedent Carrie Goretzka, age 39, was the mother of minor-plaintiffs Chloe and Carlie Goretzka.
6. Plaintiff Michael Goretzka was the husband of Carrie Goretzka and is the father and legal guardian of minor-plaintiffs Chloe and Carlie Goretzka.
7. Plaintiff JoAnn Goretzka, age 65, is an adult person and citizen of the

Commonwealth of Pennsylvania, residing therein at 405 Cowan Drive, Elizabeth, PA 15037.

8. JoAnn Goretzka was the mother-in-law of Carrie Goretzka and is the grandmother of Chloe and Carlie Goretzka.

9. Defendant, Allegheny Power, is a Pennsylvania corporation, having its principal place of business in Pennsylvania. At all times relevant hereto Allegheny Power has regularly conducted business in Allegheny County, Pennsylvania.

10. Defendant, Allegheny Energy, is a Maryland corporation, having its principal place of business in Pennsylvania. At all times relevant hereto Allegheny Energy has regularly conducted business in Allegheny County, Pennsylvania.

11. Defendant, West Penn Power Company, is a Pennsylvania corporation, having its principal place of business in Pennsylvania. At all times relevant hereto West Penn Power Company has regularly conducted business in Allegheny County, Pennsylvania.

12. Defendants Allegheny Power, Allegheny Energy, and West Penn Power Company installed, owned, and maintained the power lines located at or around 23 West Hempfield Drive, Irwin, Pennsylvania that are the subject of this lawsuit.

13. At all material times hereto, defendants acted by themselves and by and through their agents, servants and employees, including actual and/or apparent agents.

#### **OPERATIVE FACTS**

14. The allegations set forth above are incorporated herein by reference as if set forth in full.

15. On June 2, 2009, at or about 4:28 p.m., plaintiff's decedent, Carrie Goretzka, lost all power in her home.

16. Carrie Goretzka saw a fire coming from the power lines in her backyard, and went into her garage to retrieve her cell phone.

17. Carrie Goretzka went into her side yard with her cell phone in an attempt to contact 911.

18. Although there were no adverse weather conditions and upon information and belief, the 7200 volt power line fell from the pole in her yard nearest to West Hempfield Drive, striking Mrs. Goretzka and knocking her to the ground.

19. Mrs. Goretzka was shocked continuously and caught fire until the defendants' employees reported to the scene and removed the line from on top of her.

20. Plaintiff JoAnn Goretzka shocked her fingertips when she tried to assist Carrie Goretzka as Carrie Goretzka was being shocked.

21. Minor plaintiffs Chloe and Carlie Goretzka stood feet from the downed power line and saw their mother being shocked and on fire as she laid helpless on the ground in her yard.

22. JoAnn, Chloe, and Carlie Goretzka are all suffering from depression, anxiety, and sleeplessness as a result of seeing Carrie Goretzka being shocked by the downed power line.

23. Defendants Allegheny Power, Allegheny Energy, and West Penn Power Company knew and/or should have known that the subject power line was in danger of falling, as the same power line had fallen at this location within the past five (5) years.

24. Defendants Allegheny Power, Allegheny Energy, and West Penn Power Company knew and/or should have known that falling power lines such as the line that is the subject of this complaint present a great risk of danger to persons who walk under and around them on a daily basis.

25. Defendants Allegheny Power, Allegheny Energy, and West Penn Power Company

should have installed and maintained the subject power line so that it could not fall on persons walking beneath or around it, such as Carrie Goretzka.

26. Defendants were negligent in the installation and maintenance of the subject power line in that defendants:

- a. failed to use reasonable and proper care in the installation and maintenance of the subject power line and its connections so as to avoid the risk of serious bodily injury from this power line falling;
- b. failed to properly secure the subject power line;
- c. failed to perform adequate testing and inspection and failed to perform necessary maintenance so as to ensure the safety of the power line and all those who walked underneath it;
- d. failed to replace the subject power line and/or its connectors and to properly alert the public, including plaintiff's decedent and JoAnn Goretzka, to the dangerous propensities of this power line to fall after defendants knew or should have known about the unsafe condition of the power line;
- e. failed to select and install a proper splice for use on the subject line;
- f. failed to properly install and inspect the splice on the subject line;

- g. failed to use reasonable and proper care in installing and maintaining a power line so that it would not fall to the ground;
- h. failed to use reasonable and proper care installing and maintaining power lines that were safe for their intended use; and,
- i. failed to timely respond to reports of downed power line on June 2, 2009 and/or problems with power lines on June 2, 2009 so as to prevent the harm suffered by Carrie Goretzka and JoAnn Goretzka.

27. As a direct and proximate result of the wanton, reckless, tortious, and negligent conduct of all defendants, as set forth herein, Carrie Goretzka died on June 5, 2009 after enduring excruciating pain and suffering. Prior to her death, and as a direct result of defendants' conduct, Carrie Goretzka had burns covering 85% of her body, and had several fingers severed from her left hand. Carrie Goretzka underwent a left arm amputation and medical procedures in an attempt to save her life after being shocked.

28. As a direct and proximate result of the wanton, reckless, tortious, and negligent conduct of all defendants, as set forth herein, jointly and severally, JoAnn Goretzka suffered emotional injury and burns on her fingertips.



**MICHAEL GORETZKA**  
**v.**  
**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**FIRST CAUSE OF ACTION: WRONGFUL DEATH ACT**

29. The allegations set forth above are incorporated herein by reference as if set forth in full.

30. Plaintiff, Michael Goretzka, Administrator of the Estate of Carrie Goretzka, brings this action on behalf of the beneficiaries under and by virtue of the Wrongful Death Act, 42 Pa. C.S.A. §8301, and the applicable Rules of Civil Procedure and decisional law.

31. Carrie Goretzka left surviving her the following persons who are beneficiaries under the Wrongful Death Act:

Michael Goretzka (husband)  
Chloe Goretzka (daughter)  
Carlie Goretzka (daughter)

32. As a direct and proximate result of the wanton, reckless, tortious, and negligent conduct of all defendants, as set forth herein, Carrie Goretzka died on June 5, 2009 after enduring excruciating pain and suffering. Prior to her death, and as a direct result of defendants' conduct, Carrie Goretzka had burns covering 85% of her body, and had several fingers severed from her left hand. Carrie Goretzka underwent a left arm amputation and other medical procedures in an attempt to save her life after being shocked.

33. Plaintiff, Michael Goretzka, Administrator of the Estate of Carrie Goretzka, claims the full measure of damages recoverable under the Wrongful Death Act, including, but not limited to, damages for medical, funeral and burial expenses and expenses of administration necessitated by reason of injuries causing decedent's death, damages for monetary support that decedent would

have provided to the beneficiaries during decedent's lifetime, damages for services provided or which could have been expected to have been performed in the future by decedent, damages for the loss of companionship, comfort, society, guidance, solace, and protection by decedent.

**WHEREFORE**, plaintiff Michael Goretzka demands damages against defendants, including damages for loss of consortium, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits under the Wrongful Death Act, exclusive of delay damages and costs.

**MICHAEL GORETZKA**  
**v.**  
**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**SECOND CAUSE OF ACTION: SURVIVAL ACT**

34. The allegations set forth above are incorporated herein by reference as if set forth in full.

35. Plaintiff, Michael Goretzka, Administrator of the Estate of Carrie Goretzka, brings this Survival Action on behalf of the Estate of Carrie Goretzka under and by virtue of 42 Pa.C.S.A. §8302, and the applicable Rules of Civil Procedure and decisional law.

36. The persons who are entitled to the Estate of Carrie Goretzka are:

Michael Goretzka (husband)  
Chloe Goretzka (daughter)  
Carlie Goretzka (daughter)

37. As a result of the wanton, reckless, negligent, and tortious conduct of all defendants, jointly and severally, as set forth herein, plaintiff, Michael Goretzka's decedent was caused grave injuries and death resulting in the entitlement to damages by the beneficiaries under the Survival Act.

38. On behalf of the Survival Act beneficiaries, the Administrator claims all damages available under the Survival Act, including damages for loss of earnings and economic loss to decedent's estate, damages for medical expenses, damages for the loss of life's pleasures, damages for all loss of income, retirement, and Social Security income as a result of decedent's death, damages for the pain, suffering, and inconvenience endured by decedent prior to her death, including, but not limited to, physical pain and suffering, mental pain and suffering, and the fright and mental suffering attributed to the peril leading to decedent's death.

**WHEREFORE**, plaintiff Michael Goretzka demands damage against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits under the Survival Act, exclusive of delay damages and costs.

**COUNT I**  
**MICHAEL GORETZKA**  
**v.**  
**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**NEGLIGENCE**

39. The allegations set forth above are incorporated herein by reference as if set forth in full.

40. Defendants were negligent in the installation and maintenance of the subject power line in that defendants:

- a. failed to use reasonable and proper care in the installation and maintenance of the subject power line and its connections so as to avoid the risk of serious bodily injury from this power line falling;

- b. failed to properly secure the subject power line;
- c. failed to perform adequate testing and inspection and failed to perform necessary maintenance so as to ensure the safety of the power line and all those who walked underneath it;
- d. failed to replace the subject power line and/or its connectors and to properly alert the public, including plaintiff's decedent, to the dangerous propensities of this power line to fall after defendants knew or should have known about the unsafe condition of the power line;
- e. failed to select and install a proper splice for use on the subject line;
- f. failed to properly install and inspect the splice on the subject line;
- g. failed to use reasonable and proper care in installing and maintaining a power line so that it would not fall to the ground;
- h. failed to use reasonable and proper care installing and maintaining power lines that were safe for their intended use; and,
- i. failed to timely respond to reports of downed power line on June 2, 2009 and/or problems with power lines on June 2, 2009 so as to prevent the harm suffered by Carrie Goretzka.

41. As a direct and proximate result of defendants' negligence, Michael Goretzka sustained and will continue to sustain significant injuries and damages as described herein.

**WHEREFORE**, plaintiff Michael Goretzka demands damages against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits, exclusive of delay damages and costs.

**COUNT II**  
**MICHAEL GORETZKA AS ADMINISTRATOR OF THE ESTATE OF**  
**CARRIE GORETZKA**

**v.**  
**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**NEGLIGENCE**

42. The allegations set forth above are incorporated herein by reference as if set forth in full.

43. Defendants were negligent in the installation and maintenance of the subject power line in that defendants:

- a. failed to use reasonable and proper care in the installation and maintenance of the subject power line and its connections so as to avoid the risk of serious bodily injury from this power line falling;
- b. failed to properly secure the subject power line;
- c. failed to perform adequate testing and inspection and failed to perform necessary maintenance so as to ensure the safety of the power line and all those who walked underneath it;
- d. failed to replace the subject power line and/or its connectors and to properly alert the public, including plaintiff's decedent,

to the dangerous propensities of this power line to fall after defendants knew or should have known about the unsafe condition of the power line;

- e. failed to select and install a proper splice for use on the subject line;
- f. failed to properly install and inspect the splice on the subject line;
- g. failed to use reasonable and proper care in installing and maintaining a power line so that it would not fall to the ground;
- h. failed to use reasonable and proper care installing and maintaining power lines that were safe for their intended use; and,
- i. failed to timely respond to reports of downed power line on June 2, 2009 and/or problems with power lines on June 2, 2009 so as to prevent the harm suffered by Carrie Goretzka.

44. As a direct and proximate result of defendants' negligence, Michael Goretzka sustained and will continue to sustain significant injuries and damages as described herein.

**WHEREFORE**, plaintiff Michael Goretzka demands damages against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits, exclusive of delay damages and costs.

**COUNT III**  
**JOANN GORETZKA**  
**v.**  
**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**NEGLIGENCE**

45. The allegations set forth above are incorporated herein by reference as if set forth in full.

46. Defendants were negligent in the installation and maintenance of the subject power line in that defendants:

- a. failed to use reasonable and proper care in the installation and maintenance of the subject power line and its connections so as to avoid the risk of serious bodily injury from this power line falling;
- b. failed to properly secure the subject power line;
- c. failed to perform adequate testing and inspection and failed to perform necessary maintenance so as to ensure the safety of the power line and all those who walked underneath it;
- d. failed to replace the subject power line and/or its connectors and to properly alert the public, including JoAnn Goretzka, to the dangerous propensities of this power line to fall after defendants knew or should have known about the unsafe condition of the power line;
- e. failed to select and install a proper splice for use on the subject line;

- f. failed to properly install and inspect the splice on the subject line;
- g. failed to use reasonable and proper care in installing and maintaining a power line so that it would not fall to the ground;
- h. failed to use reasonable and proper care installing and maintaining power lines that were safe for their intended use; and,
- i. failed to timely respond to reports of downed power line on June 2, 2009 and/or problems with power lines on June 2, 2009 so as to prevent the harm suffered by JoAnn Goretzka.

47. As a direct and proximate result of the wanton, reckless, tortious, and negligent conduct of all defendants, as set forth herein, jointly and severally, JoAnn Goretzka suffered burns on her fingertips.

**WHEREFORE**, plaintiff JoAnn Goretzka demands damages against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits, exclusive of delay damages and costs.



**COUNT IV**  
**MICHAEL GORETZKA FOR MINOR PLAINTIFFS CHLOE GORETZKA AND**  
**CARLIE GORETZKA**

**v.**

**ALLEGHENY POWER, ALLEGHENY ENERGY,**  
**AND WEST PENN POWER COMPANY**  
**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

48. The allegations set forth above are incorporated herein by reference as if set forth in full.

49. As a result of the wanton, reckless, negligent, and tortious conduct and fault of all defendants, jointly and severally, as well as their agents, servants and/or employees, Chloe and Carlie Goretzka suffered mental anguish and distress, including, but not limited to, emotional distress, anxiety, and depression.

50. Chloe and Carlie Goretzka directly and contemporaneously witnessed the above-described negligence and injury caused to Carrie Goretzka and/or witnessed the pain and suffering of Carrie Goretzka.

51. The witnessing of the negligence and injury described herein caused Chloe and Carlie Goretzka to suffer severe emotional shock and trauma and psychological injury.

52. As a result of the emotional shock and trauma suffered by Chloe and Carlie Goretzka as a result of defendants' negligence, Chloe and Carlie Goretzka continue to experience physical and/or emotional effects and/or manifestations of that emotional trauma and shock, including sleeplessness, anxiety, depression and other symptoms, and will continue to so suffer in the future, and therefore, are entitled to recover damages in their own right for their physical injuries and emotional pain and suffering under the law.

**WHEREFORE**, plaintiff Michael Goretzka demands damages against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits, exclusive of delay damages and costs.

**COUNT V  
JOANN GORETZKA**

**v.**

**ALLEGHENY POWER, ALLEGHENY ENERGY,  
AND WEST PENN POWER COMPANY  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

53. The allegations set forth above are incorporated herein by reference as if set forth in full.

54. As a result of the wanton, reckless, negligent, and tortious conduct and fault of all defendants, jointly and severally, as well as their agents, servants and/or employees, JoAnn Goretzka suffered mental anguish and distress, including, but not limited to, emotional distress, anxiety, and depression.

55. JoAnn Goretzka directly and contemporaneously witnessed the above-described negligence and injury caused to Carrie Goretzka and/or witnessed the pain and suffering of Carrie Goretzka.

56. The witnessing of the negligence and injury described herein caused JoAnn Goretzka to suffer severe emotional shock and trauma and psychological injury.

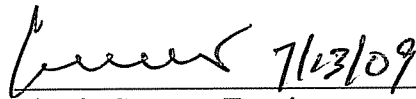
57. As a result of the emotional shock and trauma suffered by JoAnn Goretzka as a result of defendants' negligence, JoAnn Goretzka continue to experience physical and/or emotional effects and/or manifestations of that emotional trauma and shock, including sleeplessness, anxiety, depression and other symptoms, and will continue to so suffer in the future, and therefore, is entitled

to recover damages in her own right for her physical injuries and emotional pain and suffering under the law.

**WHEREFORE**, plaintiff JoAnn Goretzka demands damages against all defendants, jointly and severally, in an amount in excess of twenty five thousand dollars (\$25,000.00), and in excess of the prevailing arbitration limits, exclusive of delay damages and costs.

**KLINE & SPECTER,**  
*A Professional Corporation*

By:

 7/23/09

Shanin Specter, Esquire  
Dominic C. Guerrini, Esquire  
Kila B. Baldwin, Esquire

*Attorneys for Plaintiffs*

VERIFICATION

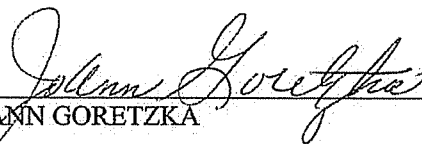
I, Michael J. Gorzeka, individually, for minors, Chloe and Carrie Gorzeka, and as Administrator of Estate of Carrie Gorzeka, deceased, hereby state that I am a plaintiff in this action and that the facts set forth in the foregoing complaint are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa. P.C.S.A. §4904 relating to unsworn falsification to authorities.

  
MICHAEL J. GORZEKA

DATE: 7/13/09

VERIFICATION

I, JoAnn Goretzka, hereby state that I am a plaintiff in this action and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that this statement is made subject to the penalties of 18 Pa. P.C.S.A. §4904 relating to unsworn falsification to authorities.

  
JOANN GORETZKA

DATE: 7/13/09

# **EXHIBIT “A”**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF WESTMORELAND

SHORT CERTIFICATE

I, EARL S. KEIM II

Register for the Probate of Wills and Granting  
Letters of Administration in and for  
WESTMORELAND County, do hereby certify that on  
the 12th day of June, Two Thousand and Nine,  
Letters of ADMINISTRATION  
in common form were granted by the Register of  
said County, on the

estate of CARRIE LYNN GORETZKA, late of HEMPFIELD TOWNSHIP  
(First, Middle, Last)

in said county, deceased, to MICHAEL J GORETZKA  
(First, Middle, Last)

and that same has not since been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the  
seal of said office at GREENSBURG, PENNSYLVANIA, this 12th day of June  
Two Thousand and Nine.

File No. 65-09-01150  
Date of Death 6/05/2009  
S.S. # 172-56-9908

  
\_\_\_\_\_  
Register of Wills