

## PERSONAL DATA QUESTIONNAIRE

1. State your full name: Barbara Jo Ernsberger (Maiden name - Behrend)

Have you ever been known by any other name? If so, please list.

None.

2. Office address (include zip code):

Behrend & Ernsberger, P.C.  
355 Fifth Avenue, 12<sup>th</sup> Floor  
Park Building  
Pittsburgh, PA 15222

Office telephone (include area code):

(412) 391-2515

Name of law firm, if associated: Behrend & Ernsberger, P.C.

3. Date and place of birth:

Pittsburgh, Pennsylvania 8/16/51

4. Are you a naturalized citizen? If so, give date and place of naturalization:

N/A

5. Family status:

- a) Are you married? If so, state the date of marriage and your spouse's full name, including maiden name, if applicable:

Daniel William Ernsberger, Date of Marriage- 11/23/1974

- b) Have you been divorced? If so, state the date, the number of the case and the court:

No.

6. Have you had any military service? If so,  
a) Give dates, branch of service, rank of rate, and present status:

No.

- b) Have you ever been rejected or released from any of the armed services for reasons other than honorable? If so, give details:

No.

List each college and law school you attended, including dates of attendance, and the degrees awarded and, if you left any institution without receiving a degree, the reason for leaving. List scholastic honors:

University of Pittsburgh, B.A. Cumlaude - 1973  
Duquesne University School of Law, J.D. - 1976

7. List all jurisdictions in which you have applied to take a bar examination, have applied for admission or have been admitted to practice. Include dates of admissions and if not admitted, give application dates and explain the outcome.

Supreme Court of Pennsylvania - 11/1/76  
U.S. District Court for Western District of Pennsylvania - 11/3/76

8. Describe chronologically your law practice and experience after your graduation from law school, including:

- a) Whether you served as clerk to a judge and, if so, the name of the judge, the court, and the dates of the period you were a clerk:

N/A

- b) Whether you practiced alone and, if so, the addresses and the dates:

N/A

- c) The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected and the nature of your connection with each:

Behrend and Aronson - 1976 - 1980  
Behrend, Aronson, and Morrow - 1980 - 1983  
Behrend, Ernsberger, Moran & Tamilia - 1983 - 1989  
Behrend & Ernsberger, P.C. - 1989 to present

d) Any other relevant particulars: None

9. With respect to your practice:

a) What has been the general character of your practice, dividing it into periods with dates if its character has changed over the years?

From 1976 to the present, I have practiced in a general practice law firm in which I have been expected to handle many areas of the law. I have tried cases in medical negligence, product liability, fraud, consumer protection, workers' compensation, family law, and I have administered estates.

b) Describe your typical clients and mention the areas, if any, in which you have concentrated your practice:

My typical clients are individuals. My practice has concentrated in workers' compensations, fraud and consumer protection act claims, and estate administration, and to a lesser extent in family law and personal injury.

10. With respect to the last five years:

a) Did you appear in court regularly, occasionally, or not at all? If the frequency of your appearances in court has varied during this period, describe each such variance, giving the dates thereof:

I appeared regularly in court trying jury and non-jury trials from September 2005 until December 31, 2006. These were mostly life insurance fraud and consumer protection cases. From January to May 2007, I worked on the settlement of the fraud cases. After they were settled, I began working on other cases and now appear in court at least once a week.

b) What percentage of these appearances was in:

1. Federal courts:

1%

2. State courts of record:

99%

3. Other courts:

None

c) What percentage of your litigation was:

1. Civil:

100%

2. Criminal:

None

d) State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel or associate counsel:

22- sole counsel

e) What percentage of these trials were:

1. Jury:

7 jury trials

2. Non-jury:

15 non-jury

12. Summarize your experience in court prior to the last five years, indicating as to that period:

a) Whether your appearances in court were more or less frequent:

While my law firm was engaging in the discovery for 250 cases involving life insurance fraud from 1999 until the trials started in 2005, my court appearances were less frequent.

b) Any significant changes in the percentages stated in your answers to question 11(b), (c) and (e):

Prior to the life insurance cases described previously, I regularly tried workers' compensation cases, administered estates, tried personal injury medical malpractice, and estate litigation. From 1976 to 1990, I tried very few family law cases. Beginning in the mid-1990s, I began taking complex support and equitable distribution cases.

c) Any significant changes in the number of cases per year in courts of record you tried to verdict or judgment (rather than settled), as sole counsel, chief counsel or associate counsel.

The discovery burden of the fraud cases described above resulted in my not having the time availability for litigating cases other than the insurance fraud cases. I tried perhaps two to three cases per year. Prior to all the insurance litigation, I was trying workers' compensation, administering estates, and trying as an assistant or by myself cases involving personal injury, medical malpractice, and estate litigation.

13. Describe five of the most significant litigated matters which you personally handled and give the citations thereto, if the cases were reported. Give a capsule summary of the substance of each case and a succinct statement of what you believe to be the particular significance of the case. Identify the party or parties whom you represented and describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case a) the dates of the trial periods; b) the name of the court and the judge before whom the case was tried; and c) the individual name, address and telephone numbers of co-counsel for each of the other parties;

See attached sheet.

14. If a substantial period of your practice has been before administrative boards, commissions or agencies during the past five years, identify the boards, commissions or agencies before which you have practiced and estimate percentages of practice time devoted thereto:

During the past five years, a substantial part of my practice has not been before administrative boards, commissions, or agencies.

15. If a substantial portion of your practice has been before Appellate courts during the past five years, identify the Appellate Courts before which you have practiced and estimate percentages of practice time devoted thereto:

I have not had a substantial appellate court practice in the past five (5) years.

16. a) Have you ever held judicial office? If so, give dates and details, including the courts involved, whether elected or appointed, periods of services, and a description of the jurisdiction of each of such courts with any limitations upon the jurisdiction of each court:

No. I do sit as an arbitrator in the Allegheny County Court of Common Pleas arbitration division for civil claims under \$25,000 at least once or twice a year since 1976.

I also am a Commissioner for the City of Pittsburgh, Department of Planning. Along with the other Commissioners, I make decisions concerning signage, conditional use applications, blight designations, subdivisions, and new zoning ordinances.

b) Have you ever held public office other than judicial office? If so, give details, including the office involved, whether elected or appointed, and the length of your service, giving details:

First Female Chairperson of the City of Pittsburgh Democratic Committee - 2002 to 2006;  
reelected 2006 to 2010 by officers of the 32 wards of the city of Pittsburgh  
Elected to Community Advisory Board - Two Terms - 1981 to 1983 and 1983 to 1985  
Appointed to the Planning Commission of the City of Pittsburgh by late Mayor Bob O'Connor from February 2006 until present  
Elected to Allegheny County Democratic Committee from 1980 until the present  
Elected PA State Committee for the 43<sup>rd</sup> Senatorial District from 1994 until the present  
Elected as a Delegate to Democratic National Convention in 1992

17. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? If so, give details, including dates:

Yes, Court of Common Pleas of Allegheny County in 1985, I lost by 800 votes on the Democratic side of the primary, and 1989 by about 1500 votes in the Democratic side of the primary.

18. Have you ever been engaged in any occupation, business or profession other than the practice of law or the holding of judicial or other public office? If so, give details, including dates:

No.

19. Are you now an officer or director or otherwise engaged in the management of any business enterprise?

a) If so, give details, including the name of your enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

I am an officer of Behrend & Ernsberger, P.C. I am currently the vice-president of the professional corporation for the year 2008. As vice-president, I participate in the management of the law firm

b) Is it your intention to resign such positions and withdraw from any participation in the management of any such enterprises if you are elected and confirmed?

If not, give reasons:

Yes.

20. Have you ever been arrested, charged with or convicted of violating any federal law or regulation, state law or regulation, or county or municipal law, regulation or ordinance? If so, give details. Do not include summary traffic offenses:

No.

21. Are you under any ongoing federal, state or local investigation or indictment for possible violation of a criminal statute? If so, give particulars:

No.

22. Has a tax lien or other collection procedure been instituted against you by federal, state or local authorities? If so, give particulars:

No.

23. Have you ever been sued by a client? If so, give particulars:

See attached sheet. I have not been sued by a client for a case in which I personally provided representation. However, my law firm has been sued and I have been named as one of the partners or shareholders.

24. Have you ever been a party or otherwise involved in any other legal proceedings? If so, give the particulars. Do not list proceedings in which you were merely a guardian ad litem or stakeholder. Include all legal proceedings in which you were a party in interest, a material witness, were named as co-conspirator or a co-respondent and any grand jury investigation in which you figured as a subject or in which you appeared as a witness:

See attached sheets.

25. Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group? If so, give the particulars:

See attached sheet.

26. What is the present state of your health? (If any medical condition or issue exists, you may be requested to execute a medical record authorization form as part of the interview process.)

I am in excellent health.

27. Do any circumstances exist that would affect your ability to perform the function of the position you seek or fulfill the term of office? If so, please explain.

No.

28. Furnish at least five examples of legal articles, law review articles, briefs, or other legal writings which reflect your personal work. If briefs are submitted, indicate the degree to which they represent your personal work:

See attached sheets.

29. List all bar associations and professional societies of which you are a member and give the titles and dates of any offices which you have held in such groups. List chairmanships of any committees in bar associations and professional societies and memberships on any committees which you believe to be of particular significance (e.g., judicial selection committee, disciplinary committee, grievance committee).

Allegheny County Bar Association  
Pennsylvania Bar Association  
Western Pennsylvania Trial Lawyers  
Pennsylvania Trial Lawyers  
American Bar Association.

30. List your experiences in teaching and lecturing, including law school, continuing legal education and to non-legal audiences.

Shadyside Presbyterian Church Sunday School Teacher  
Merit Badge Counselor, Boy Scouts of America for merit badgers related to law, communication, and personal management.

31. List all organizations other than bar associations, professional associations or societies of which you are or have been a member, including civic, charitable, religious, educational, social and fraternal organizations:

Morewood-Shadyside Civic Association - Board Member since 1980 and secretary from 1986 to the present.  
Shadyside Presbyterian Church Women's Association - President from 1996-1998  
Shadyside Presbyterian Church Nursery School - Trustee from 1983-1984  
Boy Scouts of America, Troup 380 - Merit Badge Counselor  
First Female Chairperson of the City of Pittsburgh Democratic Committee - 2002 to 2006; reelected 2006 to 2010 by officers of the 32 wards of the city of Pittsburgh  
Elected to Community Advisory Board - Two Terms - 1981 to 1983 and 1983 to 1985  
Appointed to the Planning Commission of the City of Pittsburgh by late Mayor Bob O'Connor from February 2006 until present



Elected to Allegheny County Democratic Committee from 1980 until the present  
Elected PA State Committee for the 43<sup>rd</sup> Senatorial District from 1994 until the present  
Elected as a Delegate to Democratic National Convention in 1992  
Steering Committee for Women of Obama (Pittsburgh)

32. List any honors, prizes, awards or other forms of recognition which you have received (including any indication of academic distinction in college or law school) other than those mentioned in answers to the foregoing questions.

I was awarded with a Woman of the Year recognition by the City of Pittsburgh, City Counsel in 2002. This award was the result of my being elected in the first female Chairperson of the City of Pittsburgh Democratic Committee.

33. State any other information which may reflect positively or adversely on you or which you believe should be disclosed in connection with consideration of you for an election to an Appellate Court of Pennsylvania.

I have a wide range of experience in the support of candidates for public office. This broadens my knowledge of the community and the conditions affecting our lives.

34. Why do you wish to become a Justice or Judge? What special strengths do you feel you possess that would particularly well qualify you for the position of Justice or Judge?

I wish to become a Judge so that I can use my experience for the benefit of the community at large. I am used to a heavy and complex case load. In the varied practices that I have had, I have learned to be diligent and attentive to my clients and to law effecting their cases. My experiences as a Commissioner on the City of Pittsburgh, Department of Planning, has given me an understanding that I did not have of listening to presentations, asking questions, in a way that will influence my fellow Commissioners and insisting upon public input in the process.

35. Did you sign the PBA Judicial Campaign Advertising Guidelines? (Please return signed pledge with completed questionnaire.)

Yes

**CERTIFICATION STATEMENT**

The undersigned certifies that all of the statements made in this questionnaire are true, complete and correct to the best of his/her knowledge and belief and are made in good faith.

Barbara Ernsberger

\_\_\_\_\_  
Type or print name

*Barbara Ernsberger*

\_\_\_\_\_  
Signature

January 8<sup>th</sup>, 2009

\_\_\_\_\_  
Date

25.

I was subjected to one complaint to the PA Disciplinary Board. I answered the questions of the PA Disciplinary Board in a telephone interview. I received a letter from William Friedman that the complaint was summarily dismissed.

I was criticized by the Honorable R. Stanton Wettick for calling defense counsel's paralegal a jerk. The incident occurred in my office when the paralegal denied that she had seen any of the plaintiff's original documents even though she spent two hours in my office viewing documents with the assistance of two of my employees. I apologized to her later in the day. Defense counsel then filed a motion for discovery sanctions. Judge Wettick fined the plaintiffs \$500.00 for not complying with certain discovery orders to produce documents. Although I was not named in the order, I paid the fine and apologized a second time. See attached Order of Court, Bauer v. Metropolitan Life Insurance Company.

28.

These briefs are all 100% my personal work except for Hoffman which is 50% of my work.

1. Globe Security Systems Co. v. Workmen's Compensation Appeal Board 100%
2. Nelson v. Yeager- 100%
3. Cain v. Fout- 100%
4. Winchester Thurston School v. Morewood Shadyside, et al - 100%
5. Hoffman v. Metropolitan Life Insurance- 50%

Questions 23 and 24

1. Ernsberger v. Zoning Board of Appeal, City of Pittsburgh, 109 Pa. Cmwlth. 373, 531 A.2d 98 (1987), Barbara B. Ernsberger, Galvin Devore, Rosemary Devore, and May Ann Schmertz, Appellants v. Zoning Board of Adjustment of the City of Pittsburgh and Vikram Pearce, Appellees. Commonwealth Court of Pennsylvania. Argued May 18, 1987.

Summary:

This case involved an appeal by Barbara Ernsberger, and several neighbors, against the Zoning Board of Adjustment of the City of Pittsburgh and Vickram Pearce. At a closing of sale of real property, the buyer was given what was later determined to be a fraudulent occupancy permit for three units in a residential area zoned for two units. The Zoning Board of Appeal found that since the purchaser did not participate in the fraud, relied upon being issued a three unit permit, and he would suffer a financial detriment if the permit was revoked, the purchaser was permitted to retain the three unit occupancy permit. The Commonwealth Court affirmed the Zoning Board of Adjustment.

2. Ernsberger v. Allegheny 2000 Citizens Committee, 568 Pa. 75, 791 A.2d 1176 (2002), Barbara J. Ernsberger, Appellant v. Allegheny 2000 Citizens Committee, Inc., Brabender Cox Political Inc., David Matter, John Brabender, John Verbanac and James Turner, Appellees. Supreme Court of Pennsylvania, Western District. Argued March 4, 2002. Decided March 22, 2002.

No. 31 WAP 2001, Appeal from the Order of the Superior Court entered on July 24, 2000 at No. 1470WDA1999 affirming the Order of the Court of Common Pleas, Allegheny County, Civil Division, entered on August 4, 1999 at No. GD 99-7136.

Michael Rosenfield, Pittsburgh, for appellant, Barbara J. Ernsberger.

Perry Anthony Naplitano, Pittsburgh, for appellee, Allegheny 2000 Citizens Committee, Inc.

Heather S. Heidelbaugh, Eugene A. Giotto, Joseph Sabino Mistick, Pittsburgh, for appellee David Matter.

Timothy Joseph Burdette, Pittsburgh, for appellee, James Turner.

Albert P. Caruso, Pittsburgh, for appellee, Pittsburgh, for appellees, Brabender Cox Political, John Brabender and John Verbanac.

Before Zappala, C.J. and Cappy, Castille, Nigro, Newman, Saylor, and Eakin, JJ.

Summary:

Barbara Ernsberger sued Allegheny 2000, a political action committee, and certain named individuals, for advertising on television that she was receiving a financial benefit from Allegheny County government which induced her to oppose the Home Rule Charter in Allegheny County. The advertisement showed individuals smoking cigars, drinking martinis, and driving large expensive automobiles as a government benefit. Barbara Ernsberger has never received a salary or financial benefit of any kind from any form of government. Her participation in the public debate in opposition to the Home Rule Charter was based on her belief that the new form of government would increase the expense of government by creating new elective positions, and weaken county government by creating a county executive with broad powers and a county council with weak powers. In other words, power was to be concentrated in the hands of the county executive.

The trial judge granted preliminary objections to dismiss the case that were appealed. The Superior Court affirmed in a split decision. The Pennsylvania Supreme Court granted allocatur, but decided that the appeal was improvidently granted.

3. Behrend and Ernsberger v. Anderson (Allegheny County 2008) claim for attorney fees (awarded).

4. There are other suits brought by or against Behrend and Ernsberger, P.C. and its predecessor law firms that did not directly involve Barbara Ernsberger and are therefore not listed.