

LACKAWANNA JURIST
JUDICIAL OPINION

CASE NAME AND NUMBER: US Bank v. Stephens, 2017 WL 4518402 (Lacka. Co. 2017)

DATE OF DECISION: October 6, 2017

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED: Jessica N. Manis, Esquire, Counsel for Plaintiff
Raymond W. Ferrario, Esquire, Counsel for Defendants

SUMMARY OF OPINION:

The bank in this mortgage foreclosure action filed a "Petition for Order Confirming Assignment of Interest *Nunc Pro Tunc*" seeking a decree that the subject mortgage was assigned to it by the original lender prior to the filing of this suit. The bank had already purchased the subject property at a sheriff's sale, and the borrowers did not oppose the bank's petition. The bank predicated its request upon Pa.R.C.P. 3118(a)(6) which authorizes the court in an action to enforce a money judgment to grant "such other relief as may be deemed necessary and appropriate." Although the bank's request was better suited for a declaratory judgment proceeding or a quiet title action, Rule 3118(a) is an appeal to the equitable powers of a court which may exercise its equitable authority to afford relief where the interests of justice require it, notwithstanding the existence of an alternate legal remedy. Since the borrowers did not oppose the banks request, and in order to avoid a multiplicity of suits or succession of legal actions, the uncontroverted transfer of the subject mortgage was confirmed to reflect the correct assignment.

JUDICIAL OPINION

CASE NAME AND NUMBER: World Wide Exports v. Scrap Enterprises, Inc., 2017 WL 4518404

DATE OF DECISION: October 10, 2017

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED: Scott J. Capriglione, Esquire, Counsel for Plaintiff
Gregory S. Skibitsky, Jr., Esquire, Counsel for Defendants

SUMMARY OF OPINION:

Plaintiff purchased a Komatsu dozer from the corporate defendant, pursuant to an agreement which allegedly obligated defendant to disassemble the dozer and ship its parts to Dubai. After the shipment container arrived in Dubai without seven parts necessary for its operation, plaintiff filed suit against the corporate defendant and its principal asserting claims for breach of contract and misrepresentation, and defendants filed demurrers to the contract and misrepresentation claims, as well as to the individual liability claim asserted against the corporate principal. Plaintiff's allegations were sufficient to state a cause of action against the corporate defendant for breach of contract, but were insufficient as a matter of law to expose the corporate principal to personal liability. Plaintiff's misrepresentation claim was barred by the gist of the action doctrine, and there was no statutory, contractual or other recognized basis for plaintiff's counsel fees claim. Accordingly, the demurrers to the claims for misrepresentation, counsel fees, and personal liability of the corporate principal were sustained, while the corporate defendant's demurrer to the cause of action for breach of contract was overruled.

ESTATES

First Notice

RE: **ESTATE OF JOSEPH BAIDUK**, late of Taylor, Lackawanna County, Pennsylvania (died September 20, 2017). Notice is hereby given that Letters of Administration for the Estate of Joseph Baiduk have been issued to Sharon Smith, Administratrix of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Administratrix, or to John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street – Suite 201, Scranton, PA 18503.

ESTATE OF GERTRUDE BLIER A/K/A GERTRUDE M. BLIER, late of 1101 Vine Street, Scranton, Lackawanna County, Pennsylvania (died October 19, 2017). Letters Testamentary having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Elizabeth Connery, Executor, 928 Grandview Street, Scranton, Pennsylvania 18509, or to James J. Gillotti of Oliver, Price & Rhodes, Attorney for the Estate, 1212 S. Abington Road, PO Box 240, Clarks Summit, PA 18411.

ESTATE OF JOAN CHELLINO, ESTATE NUMBER 35-2017-1344 Deceased late of Carbondale, PA, Lackawanna County, PA; died November 4, 2017. Notice is hereby given that Letters Testamentary have been granted in the above Estate. All persons indebted to said Estate are required to make payments, and those having claims or demands are to present the same without delay to Michelle Chellino, 1123 Church St., Jessup, PA 18434.

Notice is hereby given that Letters Testamentary have been granted in the **ESTATE OF JOSEPH FISNE, SR., A/K/A JOSEPH F. FISNE A/K/A JOSEPH FISNE**, late of the Township of Ransom, Pennsylvania. (died September 18, 2017) to Joseph B. Fisne, executor. All persons indebted to the said estate are required to make payment, and those having claims or demands to present the same without delay to Joseph B. Fisne or to Levene Gouldin & Thompson, LLP, attorneys for the estate, P.O. Box f-1706, Binghamton, NY 13902-0106.

RE: **ESTATE OF NANCY FLANNERY**, late of South Abington Township, PA, who died October 16, 2017. Letters Testamentary in the above estate having been granted, all persons having claims or demands against the estate of the decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to: Susan Zalesky, Executrix or to Daniel L. Penetar, Jr., Esquire, 116 North Washington Avenue, Suite 2A, Scranton, PA 18503.

RE: **ESTATE OF ANN JAMES** late of South Abington Township, Lackawanna County, Pennsylvania (died November 3, 2017). Notice is hereby given that Letters Testamentary for the Estate of Ann James have been issued to David W. James, Executor of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executor at 106 Stone Crest Circle, South Abington Township, PA 18411 or to Robert T. Kelly, Jr., Esquire, Myers, Brier & Kelly, LLP, Attorney for the Estate, 425 Spruce Street, Suite 200, Scranton, PA 18503.

ESTATE OF EDWARD B. KOWALYK, SR., Late of Scranton, Lackawanna County, PA died NOVEMBER 16, 2017. Notice is hereby given that Letters of Administration on the above estate have been granted to EDWARD B. KOWALYK, JR. as Administrator. All persons indebted to this Estate are required to make payment and those having claims to present the same without delay to the Administrator named herein or to BARRETT LAW, LLC, 345 Wyoming Avenue, Suite 215, Scranton, PA 18503.

ESTATE OF KATHRYN KRAPPA, late of Old Forge, Pennsylvania (died April 22, 2017). Notice is hereby given that Letters of Administration have been granted to David Krappa. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to Kevin M. Smith, Esquire, The Law Offices of Kevin M. Smith, P.C., Attorney for the Estate, 409 North State Street, Clarks Summit, PA 18411.

ESTATE OF PAUL NOONE, (A/K/A PAUL J. NOONE), late of the City of Scranton, Lackawanna County, Pennsylvania (died November 19, 2017). Personal Representative is Julie Bent, 3301 Southern Avenue, Baltimore MD 21214. Attorney for the Estate is Nancy M. Barrasse, Esquire, 224 Adams Avenue, Scranton, Pennsylvania 18503.

ESTATE OF KENNETH C. SANTARELLI, DECEASED, late of 600 HILLTOP ROAD, PECKVILLE, PA 18452, (Died NOVEMBER 14, 2017) MARYANN VENO, Executrix; Dante A. Cancelli, Esquire, Suite 401, 400 Spruce Street, Scranton, Pennsylvania 18503, Attorney.

Letters Testamentary have been granted on the **ESTATE OF DANIEL SETZER** to Todd Setzer. Make all claims and pay all debts to this representative without delay, care of the estate attorney. Attorney John J. Mercuri PO Box 310, Moscow, PA 18444.

ESTATE OF JAMES STALLO, ESTATE NUMBER 35-2017-1315 Deceased late of Old Forge, Lackawanna County, PA; died September 19, 2017. Notice is hereby given that Letters Testamentary have been granted in the above Estate. All persons indebted to said Estate are required to make payments, and those having claims or demands are to present the same without delay to Pamela Neiper-Redo, 46 W Cape May Ave, Box 256, Ocean Gate, NJ 08740

ESTATE OF JOHN TOVCIMAK, JR., Late of Borough of Moscow, Lackawanna County, Deceased, Letters Testamentary on the above Estate have been granted to the undersigned. All persons indebted to said Estate are requested to make immediate payment, and those having legal claims, to present the same without delay to: Lucille A. Przywara c/o Jennifer Hall, Esquire, Elliott Greenleaf, P.C., 925 Harvest Drive, Suite 300, Bell, PA 19422.

ESTATE OF CLAIRE R. UTZ, ESTATE NUMBER 35-2017-1308 Deceased late of Clarks Summit, Lackawanna County, PA; died October 6, 2017. Notice is hereby given that Letters of Administration have been granted in the above Estate. All persons indebted to said Estate are required to make payments, and those having claims or demands are to present the same with without delay to Jerry Notarianni, 321 Lemon St., Scranton, PA 18508.

ESTATE OF WILLIAM P WALTERS SR., ESTATE NUMBER 35-2017-1231 Deceased late of Scranton, Lackawanna County, PA; died April 2, 2017. Notice is hereby given that Letters Testamentary have been granted in the above Estate. All persons indebted to said Estate are required to make payments, and those having claims or demands are to present the same with without delay to Debora A. Smith, 2024 Jackson St., Scranton, PA 18504.

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NOTICE IS HEREBY GIVEN that Letters of Administration have been granted to Jill Ann Woytach, Administratrix of the **ESTATE OF MARY LOUISE WOYTACH A/K/A MARY LOU WOYTACH**, late of the Dunmore, Lackawanna County, Pennsylvania, date of death April 23rd, 2008. Creditors are to present claims and debtors are to make payments to Anne Marie Howells, Esquire (Attorney for Estate), 307 West Market Street, Suite #1, Scranton, PA 18508-2783. (570)344-1088.

NOTICE IS HEREBY GIVEN that Letters of Testamentary in the **ESTATE OF MARY H. YEVICS**, late of Moscow, Lackawanna County, Pennsylvania, who died on October 22, 2017, have been granted to Robert Haddock. All persons indebted to said Estate are requested to make payment and those having claims or demands are requested to present the same without delay to: Robert Haddock, Executor, c/o Jerry B. Chariton, Esquire, Chariton, Schwager & Malak, 138 South Main Street, P.O. Box 910, Wilkes-Barre, PA 18703-0910.

ESTATE OF JANET A. ZELNA A/K/A JANET ANN ZELNA, DECEASED, late of 279 MAIN STREET, EYNON, PA 18403, (Died NOVEMBER 2, 2017) ALFRED ZELNA, Executor; Mark G. Rudalavage, 171 Scranton-Carbondale Highway, Eynon, Pennsylvania 18403-1027, Attorney.

Second Notice

RE: **ESTATE OF MILDRED J. CHMIEL**, late of Scranton, PA, who died November 2, 2017. Letters Testamentary in the above estate having been granted, all persons having claims or demands against the estate of the decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to: Robert G. Chimmel, Executor, or to Daniel L. Penetar, Jr., Esquire, 116 North Washington Avenue, Suite 2A, Scranton, PA 18503.

ESTATE OF ANTHONY DESANDO, late of Dunmore, PA (died April 6, 2014). Notice is hereby given that Letters of Testamentary for the Estate of Anthony DeSando have been issued to Donald Nowalk, Executor of the Estate. All those having claims or demands against the Estate shall present claims or remit payment without delay to Mark J. Conway, Attorney for the Estate, 502 South Blakely Street, Dunmore, Pennsylvania 18512.

RE: **ESTATE OF FLORENCE GLOVER A/K/A FLORENCE S. GLOVER**, Deceased, (died September 13, 2017) late of Scranton, Pennsylvania, Lackawanna County. Letters Testamentary having been granted, creditors shall make demand and debtors shall make payment to J. Frederick Rohrbeck, Esquire, Kreder Brooks Halstone LLP, 220 Penn Avenue, Suite 200, Scranton, Pennsylvania, 18503.

Notice is hereby given that Letters Testamentary have been granted in the following Estate. All persons indebted to the Estate are required to make payment and those having claims or demands are required to present the same without delay to the Executors named below: **ESTATE OF NANCY C. HILL**, late of Scott Township, Pennsylvania, Died October 26, 2017, Judith C. Vescovi, Dorrien Hill Togher and David J. Hill, III, Executors; Joseph G. Price, Esquire, Attorney for the Estate, 75 Glenmaura National Boulevard, Moosic, PA 18507.

NOTICE is hereby given that Letters of Administration have been granted in the **ESTATE OF JEAN O'NEILL**, late of Dunmore, Lackawanna County (died June 12, 2017), to Kate Lynn O'Neill, Executrix, John D. Lalley, Esquire, 709 N. State Street, Clarks Summit, PA 18411. All persons indebted to the said Estate are required to make payment, and those having

claims or demands are to present same without delay to the Executrix named above.

NOTICE is hereby given that Letters of Administration have been granted in the **ESTATE OF MICHAEL O'NEILL**, late of Dunmore, Lackawanna County (died June 19, 2016), to Kate Lynn O'Neill, Executrix, John D. Lalley, Esquire, 709 N. State Street, Clarks Summit, PA 18411. All persons indebted to the said Estate are required to make payment, and those having claims or demands are to present same without delay to the Executrix named above.

ESTATE OF CLARA PELUCACCI A/K/A CLARA ANN PELUCACCI A/K/A CLARA SCUBELEK PELUCACCI, late of Madison Township, PA (died October 11, 2017) Letters Testamentary were granted to Renee Anglin, Executrix. Elaine C. Geroulo, Esq., Attorney for the Estate, 411 Jefferson Avenue, Scranton, PA 18510.

RE: **ESTATE OF ANTHONY TROJANOWICZ**, late of Peckville, Pennsylvania (died November 3, 2017). Notice is hereby given that Letters Testamentary for the Estate of Anthony Trojanowicz have been issued to Donna Perechinsky, Executrix of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executrix at 10 Margaret Avenue, Archbald, PA 18403 or to Robert T. Kelly, Jr., Myers, Brier & Kelly, LLP, Attorney for the Estate, 425 Spruce Street, Suite 200, Scranton, PA 18503.

Third Notice

RE: **ESTATE OF MARY H. ACKER**, late of Waverly, Pennsylvania. Letters Testamentary in the above estate having been granted, creditors shall make demand and debtors shall make payment to Warren T. Acker, P.O. Box 573, Waverly, Pennsylvania 18471, Executor, or to James W. Reid, Esquire, Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, PA 18411.

ESTATE OF WILLIAM F. CLARK A/K/A WILLIAM F. CLARK, JR. late of Dickson City, Lackawanna County, Pennsylvania (died April 15, 2017). Notice is hereby given that Letters of Administration for the **ESTATE OF WILLIAM F. CLARK A/K/A WILLIAM F. CLARK, JR.** have been issued to CHARLES LOWE, Administrator of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to CHARLES LOWE, c/o Jule Gaige, Attorney for the Estate, 615 Clay Avenue, Third Floor, Scranton, PA 18510 (570)350-5225.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted to Theresa Shotto, of Olyphant, Pennsylvania, in the **ESTATE OF PEARL P. KOSTIC DECEASED**, who died on September 3, 2017, late of Olyphant, Lackawanna County, Pennsylvania. All creditors are requested to present their claims and all persons indebted to the decedent are requested to make payment and to the above Administrator or her Attorney, Michael A. Shotto, Jr., Esquire, 297-299 Pierce Street, Kingston, Pennsylvania 18704. (570)283-2775.

RE: **ESTATE OF RICHARD J. RICHARDSON, SR.**, late of Throop, PA, who died October 24, 2017. Letters Testamentary in the above estate having been granted, all persons having claims or demands against the estate of the decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to: Veronica Watson, Executrix, or to Daniel L. Penetar, Jr., Esquire, 116 North Washington Avenue, Suite 2A, Scranton, PA 18503.

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ESTATE OF ANN MARIE M. TUTINO, A/K/A ANN MARIE TUTINO, A/K/A ANN MARIE KUCHWARA, Scranton, Pennsylvania (died October 26, 2017), Rose M. Jacklinski and Geri L. Otasevic, Co-Executrixes, Paul Sotak, Attorney, 410 Jefferson Avenue, Scranton, Pennsylvania 18510. Notice is hereby given that Letters Testamentary have been granted in the following Estate. All persons indebted to said estate are required to make payment, and those having claims or demands to present same without delay to the Co-Executrixes named.

FICTITIOUS NAME

Notice is hereby given that Quasar Promotions, LLC, 822 Richmond Street, Scranton, Pennsylvania 18509, has filed with the Secretary of the Commonwealth of Pennsylvania on October 6, 2017 the registration of the fictitious name, **QUASAR LABS**. The principal office of the business to be carried on through the fictitious name is 822 Richmond Street, Scranton, Pennsylvania 18509.

T1- Dec 8

CHANGE OF NAME

NOTICE IS HEREBY GIVEN THAT Thomas Joseph Errigo has filed with the Court of Common Pleas of Lackawanna County for a Judicial Change of Name to Thomas Joseph Sakosky to 224-CIV-2017 in the Court of Common Pleas of Lackawanna County. The Court fixed the 26th day of January, 2018 at 9:00 a.m. for the time and date for the Petition to be heard and when and where all persons interested shall appear and show cause why, if any, the relief requested should not be granted.

T1- Dec 8

CHANGE OF NAME

NOTICE IS HEREBY GIVEN that the Petition for Change of Name, filed by Petitioner Nichole Kelley, was filed in the Court of Common Pleas of Lackawanna County to No. 2017 CIV 6312 and prays for a decree to change her name to Nichole Alannah Rohan. The Court has fixed January 26, 2018 at 9:00 a.m. as the date and time of the hearing in Courtroom No. 3, Lackawanna County Courthouse, 200 N. Washington Ave. Scranton, PA 18503.

T1- Dec 8

CHANGE OF NAME

NOTICE IS HEREBY GIVEN that the Petition for Change of Name, filed by Petitioner Ariel Kelley, was filed in the Court of Common Pleas of Lackawanna County to No. 2017 CIV 6313 and prays for a decree to change her name to Ariel Raven Rohan. The Court has fixed January 26, 2018 at 9:00 a.m. as the date and time of the hearing in Courtroom No. 3, Lackawanna County Courthouse, 200 N. Washington Ave. Scranton, PA 18503.