

LACKAWANNA JURIST

JUDICIAL OPINION

CASE NAME AND NUMBER: Yzkanin v. Hammerjax LLC, 2019 WL 994512 (Lacka. Co. 2019)

DATE OF DECISION: March 1, 2019

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Thomas W. Munley, Esquire, Jason J. Mattioli, Esquire, Counsel for Plaintiff, Michael Yzkanin Henry J. Noye, Esquire, Counsel for Defendant, Hammerjax, LLC d/b/a Hammerjax Bar and Grill in No. 18 CV 2260
Joseph F. Kulesa, Esquire, Counsel for Plaintiff, Marcel Geslicki Henry J. Noye, Esquire, Counsel for Defendants, Hammerjax, LLC, Steeltown Saloon, LLC, Robert Daniels, and Ann Daniels in No. 18 CV 2695

SUMMARY OF OPINION:

In this dram shop action, the tavern owners sought to strike plaintiff's allegations of reckless, willful, and wanton conduct and the claims for punitive damages on the basis that plaintiff failed to sufficiently allege facts warranting such a finding and award. Pa.R.C.P. 1019, which is entitled "Contents of Pleadings – General and Specific Averments," states that "[m]alice, intent, knowledge, and other conditions of the mind may be averred generally." Since 2009, the Superior Court of Pennsylvania has held that "[a]n example of a condition of the mind that may be averred generally is wanton conduct," and that "because recklessness is also known as 'wanton and willful misconduct,' 'recklessness' is a condition of the mind that may be averred generally." Archibald v. Kemble, 971 A.2d 513, 519 (Pa. Super. 2009), app. denied, 605 Pa. 678, 989 A.2d 914 (2010). Therefore, preliminary objections seeking to strike claims of recklessness and to dismiss punitive damages claims on the basis of factual insufficiency have been overruled, provided that the complaint generally avers willfulness, wantonness, or recklessness. Doyle v. Dianna, 34 Pa.

JUDICIAL OPINION

CASE NAME AND NUMBER: Pennsylvania Trust Company v. Moses Taylor Hospital, 2019 WL 1063614 (Lacka. Co. 2019)

DATE OF DECISION: March 5, 2019

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Matthew A. Casey, Esquire, John Pinto, Esquire, Counsel for Plaintiff
Stuart T. O'Neal, Esquire, M. Sean Maravich, Esquire, Courtney C. Barbacane, Esquire
James A. Young, Esquire, Richard S. Margulies, Esquire, Counsel for Defendants, Wilkes-Barre Hospital Company, LLC d/b/a Wilkes-Barre General Hospital, Commonwealth Health Physician Network, Commonwealth Health Network, and Commonwealth Health Systems
James A. Doherty, Jr., Esquire, Grace Doherty Hillebrand, Esquire, Counsel for Defendants, OB-GYN Associates, LLC, and John Frye, M.D.
Michael P. Perry, Esquire, Michael O. Pitt, Esquire, Counsel for Defendant, Moses Taylor Hospital

SUMMARY OF OPINION:

Plaintiff in this malpractice action filed a motion to preclude the only non-settling defendant from presenting the testimony of a newly retained expert who produced an expert report one week prior to trial criticizing the care that was provided by the settling defendants. The factors to be considered in determining whether to exclude an expert's testimony are (1) the prejudice to the party against whom the witness will testify; (2) the ability of that party to cure the prejudice; (3) the extent which waiver of the exclusionary rule would disrupt the orderly and efficient trial of the case or other cases; and (4) the bad faith or willfulness on the part of the defaulting party. In the absence of bad faith or willful disobedience, the most significant considerations are the importance of the witness's testimony and the prejudice to the party against whom the witness will testify. The delinquent production of the expert report was the product of the non-settling defendant's intentional strategy in foregoing a cross-claim against a co-defendant, as opposed to timely asserting a claim for contribution or indemnification. While the timing of the solicitation and receipt of the report did not appear to be the product of bad faith, the prejudice resulting to plaintiff on the eve of trial, and plaintiff's corresponding inability to cure that prejudice on such short notice, were self-evident. Since the non-settling defendant did not identify any "extenuating circumstances" which caused its noncompliance with Pa.R.C.P. 4003.5 to be "beyond the control of the defaulting party," and a continuance of the trial would disrupt the orderly and efficient trial of the case and other matters, plaintiff's motion to preclude was granted.

ESTATES

First Notice

ESTATE OF WILLIAM A. BROJACK, late of Scott Township, Pennsylvania, died on February 19, 2019. All persons having claims against the Estate shall present same to Co-Executors, David Brojack and William Brojack, c/o Donald W. Jensen, Esquire, 538 Spruce Street, Suite 730, Scranton, Pennsylvania 18503.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted in the **ESTATE OF SHARYN CAWLEY A/K/A SHARYN T. CAWLEY**, Deceased, late of 809 Washington Street, Throop, Lackawanna County, Pennsylvania 18512, who died on January 28, 2019. All persons indebted to the Estate are requested to make payment and those having claims or demands are to present same, without delay, to the Executrix, Andrea Davis, or Michael N. Krisa, Attorney for the Estate, 3397 Scranton/Carbondale Highway, Suite 4, Blakely, Pennsylvania 18447.

NOTICE IS HEREBY GIVEN that Letters of Administration were granted to Mary Ann Conaboy Abrahamsen and William P. Conaboy, in the **ESTATE OF MARION CONABOY**, late of Scranton, Lackawanna County, Pennsylvania, who died on March 7, 2019. 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 the estate's counsel named below: Edwin A. Abrahamsen, Esquire, Abrahamsen, Conaboy & Abrahamsen, P.C., 1006 Pittston Avenue, Scranton, PA 18503.

ESTATE OF ELIZABETH (BETTY) DIXON, Scranton, Lackawanna County, Pennsylvania. Letters Testamentary on the above estate having been granted to Donna Dixon, all persons indebted to the said estate are requested to make payment, and those having claims to present the same without delay to her c/o Joseph Kosierowski, Esq., 400 Broad Street, Milford, Pennsylvania 18337.

RE: **ESTATE OF FRANCES A. GENTILE**, Late of Throop, Lackawanna County, Pennsylvania (died February 21, 2019). Notice is hereby given that Letters Testamentary for the **ESTATE OF FRANCES A. GENTILE**, have been issued to JEFFREY GENTILE and MARY GENTILE BULL, Co-Executors 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 Co-Executors, or to MICHAEL C. COWLEY, COWLEY LAW OFFICES, LLC, Attorney for the Estate, 114 North Abington Road, Clarks Green, PA 18411.

NOTICE IS HEREBY GIVEN that Letters Testamentary in the **ESTATE OF GLORIA HUGHES**, (date of death: January 24, 2019) late of the Borough of Olyphant, Lackawanna County, Pennsylvania, have been granted to the undersigned. All persons indebted to said estate are required to make immediate payment and those having claims shall present them for settlement to: EUGENE B. HUGHES, CO-EXECUTOR, LYNN A. HUGHES-HAILEY, CO-EXECUTOR, KEVIN R. GREBAS, Esquire, COLBERT & GREBAS, P.C., 210 Montage Mountain Road - Suite A, Moosic, PA 18507.

ESTATE OF MARGARET LLOYD, A/K/A MARGARET TINA LLOYD, late of Newton Township, Pennsylvania, died February 1, 2019. Letters Testamentary on the above Estate having been granted to Daniel Lloyd and Cody Stanco, Executors, all persons indebted to said Estate are requested to make payment and those having claims to present the same without delay to Ann Lavelle Powell,

Esquire, 345 Wyoming Avenue, Scranton, PA attorney for the Estate.

ESTATE OF REVEREND JOSEPH J. MATTEY, late of the Borough of Taylor, Pennsylvania (died January 28, 2019). Letters Testamentary on the above estate having been granted, all persons having claims and demands against the estate of the above decedent shall make them known and present them; all of the persons indebted to the said decedent shall make payment thereof without delay to Msgr. John Bergamo, 236 Route 390, Cresco, PA 18326 or Patrick J. Lavelle, Esquire, 715 North State Street, Clarks Summit, PA 18411.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted to Joseph P. Wargo, of Olyphant, PA in the **ESTATE OF JOHN F. SLABODA**, (died February 22, 2019), late of Dickson City, Lackawanna County, Pennsylvania. All persons and creditors having claims against the Estate or who are indebted to the Estate shall make payment or make claims to the Executor Joseph P. Wargo, or to Maria Marsili, Esq., Attorney for the Estate, 169 Wagner Blvd., Greenfield Township, PA 18407. (570)351-5724.

Second Notice

ESTATE OF IRENE C. BOARDMAN, late of Newton Township, Pennsylvania, (died February 19, 2019). Letters Testamentary on the above estate having been granted, all persons having claims and demands against the estate of the above decedent shall make them known and present them; all of the persons indebted to the said decedent shall make payment thereof without delay to: Nancy Madus, 1709 Forest Acres Drive, Clarks Summit, PA 18411, or Patrick J. Lavelle, Esquire, 715 North State Street, Clarks Summit, PA 18411.

ESTATE OF CATHERINE ANN CADDEN, late of Scranton, Lackawanna County, PA (November 29, 2018). 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 Lauren Cadden, 1508 Jefferson Avenue, Dunmore, PA 18509, Executor, or to Jane M. Carlonas, Esquire, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 S. Abington Road, PO Box 240, Clarks Summit, PA 18411.)

ESTATE OF MARIE T. CALPIN, late of the City of Scranton died October 18, 2018, Executor David Bulzoni, Terrence V. Gallagher Attorney for the Estate, 416 Jefferson Avenue, Scranton, PA 18510. Notice is hereby given that Letters Testamentary have been granted. All persons indebted to the said estate are required to make payment, and those having claims or demands are to present the same without delay to the Executor's name.

NOTICE IS HEREBY GIVEN that Letters Testamentary (Letters of Administration) have been granted to Joseph D'Arienzo, Executor of the **ESTATE OF ANGELA MARIE D'ARIENZO** late of Dunmore, Lackawanna County, Pennsylvania, who died on January 19, 2019. All persons indebted to said Estate are required to make payment and those having claims to present the same without delay to the Executor or to Michael F. Cosgrove of Haggerty Hinton & Cosgrove LLP, 203 Franklin Avenue, Scranton, PA 18503.

IN RE: **ESTATE OF DANIEL D. DEGILIO**, late of Jefferson Township, Pennsylvania (Died December 31, 2018). Notice is hereby given that Letters Testamentary on the above Estate have been granted to Jacquelyn A. Degilio. All persons indebted to the said estate are required to make payment and those having claims to present the same without

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delay to the Executrix named above or to Eugene Daniel Lucas, Esquire, 1425 Green Ridge Street, Dunmore, PA 18509.

ESTATE OF JOSEPH C. EMANUEL, late of Scranton, PA (died February 6, 2019). Notice is hereby given that Letters of Administration for the Estate of Joseph C. Emanuel have been issued to Darlene Howell, Administratrix 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.

ESTATE OF JACQUELYN JENKINS, late of Taylor, Lackawanna County, Pennsylvania, Deceased, date of death: December 16, 2018, Letters of Testamentary have been granted in the estate to Christal Connolly, Executrix, or Powell Law Attorneys, 527 Linden Street, Scranton, PA 18503. All persons having claims against the estate requested to present them in writing and all persons indebted to the estate to make payment to it in care of the Attorney noted above.

NOTICE IS HEREBY GIVEN that Letters Testamentary in the ESTATE OF **MARIANNE B. KLEHA A/K/A MARIANNE KLEHA**, (date of death: November 9, 2018) late of the City of Scranton, Lackawanna County, Pennsylvania, have been granted to the undersigned. All persons indebted to said estate are required to make immediate payment and those having claims shall present them for settlement to: **KIMBERLY KLEHA, EXECUTRIX, KEVIN R. GREBAS, Esquire, COLBERT & GREBAS, P.C., 210 Montage Mountain Road – Suite A, Moosic, PA 18507.**

ESTATE OF JOSEPHINE A. LASKIEWICZ, late of Scranton, Pennsylvania (died January 25, 2019). Notice is hereby given that Letters Testamentary have been granted to Jo Ann Laskiewicz-Smith and Annette Caleb. 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 FRANCES E. LORUSSO, late of Dunmore, Pennsylvania (died January 14, 2019). Letters Testamentary having been granted to John LoRusso, all persons having claims against the Estate or indebted to the Estate shall make payment or present claims to Matthew P. Barrett, Esquire, 345 Wyoming Avenue, Suite 215 Scranton, PA 18503.

ESTATE OF CATHERINE M. LOUGHNEY, Deceased. Late of Clarks Summit Borough, Lackawanna County, PA. D.O.D 2/17/19. Letters Testamentary on the above Estate have been granted to the undersigned, who request all persons having claims or demands against the estate of the decedent to make known the same and all persons indebted to the decedent to make payment without delay to Erin L. Haas, Executrix, c/o Kara A. Klaiber, Esq., 130 W. Lancaster Ave., Wayne, PA 19087-0191. Or to her Atty.: Kara A. Klaiber, Davis Bennett Spiess & Livingood LLC, 130 W. Lancaster Ave., P.O. Box 191, Wayne, PA 19087-0191.

ESTATE OF MARILYN B. MILLER late of the City of Scranton, Lackawanna County, Pennsylvania (died February 22, 2019). Personal Representatives are Jennifer A. Miller, R. 534 North Rebecca Avenue, Scranton PA 18504 and Mary Kay Noto, 102 Cross Drive, Dunmore PA 18512. Attorney for the Estate is Nancy M. Barrassé, Esquire, 224 Adams Avenue, Scranton, Pennsylvania 18503.

IN RE: **ESTATE OF ERNEST F. REFICE**, late of Scranton, Pennsylvania (Died January 30, 2019). Notice is hereby given that Letters Testamentary on the above Estate

have been granted to Louise Pawlowski. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Executrix named above or to Eugene Daniel Lucas, Esquire, 207 Lackawanna Avenue, Olyphant, PA 18447.

ESTATE OF GASPER F. RUNCO, late of Scranton, PA (died June 4, 2018). Letters of Administration having been granted to Carmen Runco. All persons knowing themselves to be indebted to said Estate will make payment immediately, and those having claims will present them for settlement to Carmen Runco, Administrator, or to: Tullio DeLuca, Attorney for the Estate, 381 N. 9th Avenue, Scranton, PA 18504.

ESTATE OF ERIC W. SHARPE, late of Scranton, Pennsylvania (died January 3, 2019). Letters Testamentary having been granted to Eleanor Bader, all persons having claims against the Estate or indebted to the Estate shall make payment or present claims to Matthew P. Barrett, Esquire, 345 Wyoming Avenue, Suite 215 Scranton, PA 18503.

ESTATE OF PATRICIA A. SNELL, late of Troop, Pennsylvania (died April 17, 2017). Notice is hereby given that Letters Testamentary have been granted to Carol J. Wassel. 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.

Third Notice

ESTATE OF CECILIA ALFANO, late of Borough of Clarks Summit, County of Lackawanna, Pennsylvania (died November 11, 2018) – Notice is hereby given that Letters Testamentary of the above estate have been granted to Diane Nish, Executrix of the 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 Executrix named herein, or her attorney, Jacob Nogi, Esquire, 345 Wyoming Avenue, Suite 200, Scranton, Pennsylvania 18503.

Notice is hereby given that Letters of Administration have been granted to Thomas R. Carey, Administrator of the **ESTATE OF RALPH P. CAREY**, late of Clarks Summit, who died on April 10, 2014. All persons indebted to Estate are required to make payment and those having claims or demands are to present the same without delay to the Administrator or to Raymond C. Rinaldi, II, Esquire, Rinaldi & Poveromo, P.C., P.O. Box 826, Scranton, PA, 18501.

ESTATE OF DANIEL J. CHESIK, SR., late of Lackawanna County, Pennsylvania, deceased. Letters Testamentary on the above estate having been granted to the undersigned, all persons indebted to the said estate are requested to make payment and those having claims to present same, without delay to Danielle M. Dean, 75 Jessica Drive, Penn Laird, VA 22846, or to her attorneys, FARLEY & BERNATHY, LLC, 2523 Route 6, Suite 1, Hawley, PA 18482.

ESTATE OF MARGARET CZARNECKI, late of Clarks Green, Pennsylvania (died January 20, 2019). Letters Testamentary have been issued to Brian Joseph Czarniecki and Dean Alan Price, Co-Executors 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 Patrick Walsh, Esquire, attorney for the Estate at 715 N. State Street, Clarks Summit, PA 18411.

ESTATE OF DORIS E. HACK, late of Scranton, PA (died May 26, 2018) Debra Hack & Nancy Fagnan, Executors, John R. O'Brien, Esquire, Oliver, Price & Rhodes, 1212 South Abington Road, PO Box 240, Clarks Summit, PA 18411.

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Estate notice is hereby given that Letters of Testamentary have been granted to William Hapersberger, Jr., in the **ESTATE OF PAULA LYNN HUDACHEK**, late of Springbrook Township, Lackawanna County, Pennsylvania, who died December 1, 2018. All persons indebted to said Estate are requested to make payment and those having claims to present the same, without delay, to Justin J. Sulla, Esq., 1144 E Drinker Street, Dunmore, Pennsylvania 18512 or Executor, William Hapersberger, Jr., 825 Route 690, Springbrook Township, PA 18444.

Notice is hereby given that Letters Testamentary have been granted in the **ESTATE OF NICHOLAS KREHEL, A/K/A NICHOLAS P. KREHEL, JR., OR NICHOLAS P. KREHEL**, late of the Borough of Archbald, Lackawanna County, who died May 22, 2018. All persons indebted to said Estate are requested to make payment and those having claims to present the same, without delay, to the Co-Executors, NICHOLAS M. KREHEL and ALEXANDRA KREHEL, and their Attorneys. SAPORITO, FALCONE & WATT, 490 North Main Street, Pittston, PA 18640.

RE: ESTATE OF NICHOLAS H. LASAVAGE, late of Moosic, Lackawanna County, Pennsylvania (died February 14, 2019). Notice is hereby given that Letters Testamentary for the Estate of Nicholas H. Lasavage have been issued to David Pietryka, 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, or to John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street – Suite 201, Scranton, PA 18503.

ESTATE OF SHIRLEY A. MURPHY, Deceased, late of Olyphant, Lackawanna County, Pennsylvania (died July 13, 2018); Letters Testamentary having been granted to Robert E. Hudak, Executor and Linda M. Walsh, Executrix; all persons having claims or demands against the Estate of Decedent are requested to immediately present the same and those persons indebted to said Estate are to make payment without delay to C.J. Mustacchio, Esquire, Attorney for the Estate, 99 West Filbert Street, Archbald, PA 18403.

ESTATE OF DANIEL SCHAUFLER, late of Scranton, Pennsylvania (died January 21, 2019). Notice is hereby given that Letters of Administration on the above estate have been granted to Sheila E. Schaufler, of Scranton, Executrix. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Executrix named herein, or to Patrick N. Coleman, Esquire, Tellie & Coleman, P.C., 310 East Drinker Street, Dunmore, PA 18512.

ESTATE NOTICE ESTATE OF CATHERINE A. SCOBLICK, deceased February 2, 2019, late of 1112 ARCHBALD MOUNTAIN ROAD, JEFFERSON TOWNSHIP, LACKAWANNA COUNTY, Pennsylvania. Notice is hereby given that Letters Testamentary on the above estate have been granted to CATHERINE A. GENCO, Executor. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Executor or to Elizabeth A. Giannotti, Esquire, 619 Jenkins Lane, North Wales, Pennsylvania, 19454.

ESTATE OF HELEN YADLOSKY A/K/A HELEN M. YADLOSKY, late of Jermyn, PA (died September 8, 2018) Letters Testamentary were granted to Kristale Dooley, Executrix. Elaine C. Geroulo, Esq., Attorney for the Estate, 411 Jefferson Avenue, Scranton, PA 18510.

NOTICE IS HEREBY GIVEN that Letters Testamentary in the **ESTATE OF HELEN YURGALAVICH**, late of the City of Scranton, Lackawanna County,

Pennsylvania, (died January 19, 2019), have been granted to the undersigned. All persons indebted to said estate are required to make immediate payment and those having claims shall present them for settlement to: MICHAEL COND RAT A/K/A MICHAEL E. COND RAT, EXECUTOR, C/O MATTHEW J. PARKER, ESQUIRE, MARSHALL, PARKER & WEBER, LLC, 49 E. Fourth Street, Ste. 105, Williamsport, PA 17701.

FICTITIOUS NAME

Notice is hereby given that Amber Cipriani, 608 S. Webster Ave., Scranton PA 18505, filed with the Secretary of the Commonwealth of Pennsylvania on 3/2/19, an application for Registration of the Fictitious Name, "**Electric City Art Studio**". The principal place of business is located at The Marketplace at Steamtown, 300 Lackawanna Ave., D3, Scranton, PA 18503.

T1-3/29

FICTITIOUS NAME

Notice is hereby given pursuant to the provisions of Fictitious Name Act as amended and supplemented with the Department of State, Commonwealth of Pennsylvania, Environmental Service Corp. of PA has filed and same was approved on February 25, 2019, by the Secretary of the Commonwealth of Pennsylvania, to conduct business under the fictitious name of **Mr. Septic**, having a principal place of business located at 9121 Valley View Drive, Clarks Summit, PA 18411.

TRESSLER LAW, LLC

T1-3/29

NOTICE

Notice of Dissolution

THE LAW OFFICE OF RALPH P. CAREY IS DISSOLVING. CLIENTS WHO WISH TO RETRIEVE FILES SHOULD CONTACT: Lawrence A. Durkin, Esquire, Durkin MacDonald, LLC, 536 East Drinker Street, Dunmore, PA 18512. Telephone No. (570) 558-1500. AFTER APRIL 5, 2019 ALL FILED NOT RECLAIMED WILL BE DESTROYED.

T1-3/29