



# Chester County Law Reporter

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# Chester County Law Reporter

(USPS 102-900)

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**Frank-Budow vs. West Chester University**

Trip and fall – Sovereign Immunity Act – Pa.R.A.P. 1925 – Statement of Errors – Real estate exception – Invitee – Assumption of risk – Dangerous condition – Mere accident – Summary judgment – Contributory negligence - Expert testimony

1. West Chester University (WCU) is a Commonwealth party pursuant to the Pennsylvania Sovereign Immunity Act.
2. It has been said that a brief that contains ten or twelve points raises a presumption that there is no merit to any of them, which reduces the effectiveness of appellate advocacy because such advocacy is measured by effectiveness, not loquaciousness.
3. Pa. R.A.P. 1925(b) is not satisfied by simply filing a convoluted statement of errors, rather, the rule requires that the statement be concise and coherent as to permit the trial court to understand the specific issues being raised on appeal. The filing should be detailed enough so that the judge can write a Rule 1925(a) opinion, but not so lengthy that it does not meet the goal of narrowing down the issues previously raised to the few that are likely to be presented to the appellate court without giving the trial judge volumes to plow through.
4. Voluminous statements of error do not identify the issues that appellants actually intend to raise on appeal and, thus, hinder a meaningful review and make it all but impossible for the trial court to provide a comprehensive analysis of the issues.
5. A concise statement which is too vague to allow the court to identify the issues raised on appeal is the functional equivalent of no concise statement at all.
6. The defense of sovereign immunity is generally available to a state university.
7. Under the Sovereign Immunity Act, the Commonwealth and related local governmental entities are immune from premises liability suits in most circumstances. Sovereign immunity is only waived for damages arising out of a negligent act where the common law or a statute would permit recovery if the injury were caused by a person not protected by sovereign immunity and the cause of action falls under one of the specifically enumerated exceptions to immunity.
8. Under the real estate exception to the Sovereign Immunity Act, the injury must have been caused by a dangerous condition derived from defective realty or a defect in the realty's construction, maintenance, repair or design. The dangerous condition must derive from the realty itself.
9. Exceptions to sovereign immunity are to be strictly construed in this Commonwealth because of the clear legislative intent to insulate government from exposure to tort liability.
10. The standard of care a possessor of land owes to one who enters upon the land depends upon whether the person entering is a trespasser, licensee, or invitee.
11. An invitee includes a business visitor who is invited to enter or remain on land

for a purpose directly or indirectly connected with business dealings with the possessor of the land.

12. Possessors of land owe a duty to invitees to protect them from foreseeable harm.
13. It is precisely because the invitee assumes the risk of injury from obvious and avoidable dangers that the possessor owes the invitee no duty to take measures to alleviate those dangers.
14. A danger is deemed to be obvious when both the condition and the risk are apparent to and would be recognized by a reasonable man, in the position of the visitor, exercising normal perception, intelligence, and judgment.
15. For a danger to be known, it must not only be known to exist, but also be recognized that it is dangerous and the probability and gravity of the threatened harm must be appreciated.
16. Although the question of whether a danger was known or obvious is usually a question of fact for the jury, the question may be decided by the court where reasonable minds could not differ as to the conclusion.
17. Before a Commonwealth party can be charged with constructive notice of a dangerous condition, that condition must have been apparent upon a reasonable inspection.
18. The admission of expert testimony is a matter of discretion for the trial court and will not be remanded, overruled or disturbed unless there was a clear abuse of discretion.
19. An abuse of discretion occurs if the trial court's decision is manifestly unreasonable, is the result of prejudice, bias, or ill will, or constitutes a clear error of law.
20. Expert testimony is incompetent if it lacks an adequate basis in fact. While an expert's opinion need not be based on absolute certainty, an opinion based on mere possibilities is not competent evidence. This means that expert testimony cannot be based solely upon conjecture or surmise. Rather, an expert's assumptions must be based upon such facts as the jury would be warranted in finding from the evidence.
21. Pa.R.E.703 states that the facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.
22. The mere fact that steps might be slightly worn or smooth, of itself, is not negligence.
23. The mere happening of an accident is not evidence of negligence.
24. Pa.R.E. 704 states that if an expert states an opinion, the expert must state the facts or data on which the opinion is based.
25. The gatekeeping role of the court is essential to the jury's function. Scientific

methodology and conclusions must initially be scrutinized by the court to ensure that what might appear to the jury to be science is not in fact speculation in disguise.

26. Opinion evidence, whether of experts or lay witnesses, is judicially disclaimed when it goes to the ultimate issue in the case.
27. There is no duty for a defendant to upgrade or retrofit a building to be compliant with current codes.
28. A plaintiff cannot survive summary judgment when mere speculation would be required for the jury to find in plaintiff's favor.
29. Assumption of risk is established as a matter of law only where it is beyond question that the plaintiff voluntarily and knowingly proceeded in the face of an obvious and dangerous condition. Voluntariness is established only when the circumstances manifest a willingness to accept the risk.
30. Mere contributory negligence does not establish assumption of the risk. Rather, a plaintiff has assumed the risk where she has gone so far as to abandon his right to complain and has absolved the defendant from taking any responsibility for the plaintiff's injuries. In order to prevail on assumption of risk, the defendant must establish both the awareness of the risk prong and the voluntariness prong.
31. A plaintiff's failure to establish or raise a fact in the record does not make its absence material, rather, the fact must be assumed as non-material.
32. This case involves a trip and fall on staircase in Anderson Hall at West Chester University by one of its students who regularly used the staircase. As she was a registered full-time student at the university, Plaintiff was an invited guest of WCU. In its motion for summary judgment, WCU claimed that it did not have actual or constructive notice of a dangerous condition resulting from the staircase and, therefore, had statutory immunity. This Court agreed with WCU's contention inasmuch as the record failed to establish actual notice. Plaintiff failed to demonstrate that WCU conducted any repairs or maintenance activities or that there was any evidence of complaints, reports of problems, or concerns received by WCU that could be deemed actual notice under the law. Accordingly, a jury could not infer actual notice from the record in this case.
33. The Court found that the record revealed a disputed issue of material fact as to whether WCU had constructive knowledge of the condition of the staircase. Plaintiff stated that the staircase was well known to be in poor condition, especially among the student population. Plaintiff testified that prior to the incident she had heard people make complaints about the stair case, and that "everybody knew what the steps were like . . . that you could hurt yourself on those steps." The Court concluded that Plaintiff had actual knowledge of the obvious hazard before she tripped and fell on the staircase. As a matter of law, Plaintiff assumed the risk of sustaining her injuries. This Court *Held* summary judgment was granted in favor of Defendant and against Plaintiff. This Court respectfully requested its decisions be affirmed.

R.E.M.

C.C.P. Chester County, Pennsylvania, Civil Action No. 2015-10894; Joanne Frank-Budow vs. West Chester University

Robert A. DeLuca for Plaintiff

Jane H. Fisher and Susan L. Digiacomo for Defendant

Mahon, J., November 17, 2017:-

[Editor's note: Appeal dismissed by Commonwealth Court on Oct. 15, 2018, 1035 CDA 2018]

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[68 Ches. Co. Rep. **Frank-Budow vs. West Chester University**

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JOANNE FRANK-BUDOW : IN THE COURT OF COMMON PLEAS  
: CHESTER COUNTY, PENNSYLVANIA  
v. : CIVIL ACTION  
WEST CHESTER UNIVERSITY : NO. 2015-10894-TT

Robert A. DeLuca, Esquire, Attorney for Plaintiff

Jane H. Fisher, Esquire and Susan L. Digiacomio, Esquire, Attorneys for Defendant

### OPINION

**AND NOW**, this 27th day of November, 2017, this Opinion is filed pursuant to Pa. R.A.P. 1925 and in response to Plaintiff’s timely Concise Statement of Errors Complained of on Appeal.<sup>1</sup>

### **PROCEDURAL AND FACTUAL HISTORY**

We only set forth as much of the procedural and factual history as is necessary for the issuance of this Opinion. This case was initiated by a Writ of Summons on November 24, 2015. Subsequently, on March 1, 2016, Plaintiff filed a Complaint alleging personal injuries and damages resulting from a trip and fall (hereinafter, the “incident”) that occurred on November 25, 2013. In her Complaint, Plaintiff contends that the incident occurred on the South staircase in Anderson Hall, located on the premises of West Chester University (hereinafter, “WCU”). At the time of the incident, Plaintiff was a full-time matriculated student at WCU who regularly used the subject staircase to exit Anderson Hall after class.

WCU is an institute of higher learning and part of the Pennsylvania System of Higher Education, and is currently situated at 700 South High Street, West Chester Borough, Chester County, Pennsylvania. WCU is also a Commonwealth party pursuant to the Pennsylvania Sovereign Immunity Act, codified in 42 Pa.C.S.A. §§ 8521-8528, and at all times relevant hereto, had under their exclusive care, custody and control the subject staircase.

On the morning of April 19, 2017, this case was called to trial. However, instead of proceeding with jury selection, the Court conducted an Administrative Conference which resulted in a continuance of the trial and the issuance of a scheduling Order granting Plaintiff additional time to supplement her expert report

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<sup>1</sup> Filed with the Court on September 14, 2017.

and permitting Defendant to file a motion for summary judgment. On June 13, 2017, Defendant filed a Motion for Summary Judgment, which was opposed by Plaintiff. By Order dated August 3, 2017, summary judgment was granted in favor of Defendant and against Plaintiff. On August 30, 2017, Plaintiff filed a Notice of Appeal in response to which, this Court ordered that a Concise Statement of Errors Complained of on Appeal (“Concise Statement”) be filed and served upon the undersigned pursuant to Pa. R.A.P. 1925(b). On September 14, 2017, Plaintiff filed a timely Concise Statement.

## DISCUSSION

Plaintiff’s Concise Statement raises twenty-two (22) issues for our review.<sup>2</sup>

<sup>2</sup> Before we begin our analysis as to the assignments of error raised in this appeal, we note that Plaintiff perplexingly raises 22 issues in her five page, double-spaced, Concise Statement. Such a lengthy Concise Statement in response to an Order granting summary judgment brings to mind the words of the learned jurist Ruggiero Aldisert:

“With a decade and a half of federal appellate court experience behind me, I can say that even when we reverse a trial court it is rare that a brief successfully demonstrates that the trial court committed more than one or two reversible errors. I have said in open court that when I read an appellant’s brief that contains ten or twelve points, a presumption arises that there is no merit to any of them. I do not say that it is an irrebuttable presumption, but it is a presumption nevertheless that reduces the effectiveness of appellate advocacy. Appellate advocacy is measured by effectiveness, not loquaciousness.”

United States v. Hart, 693 F.2d 286, 287 n.1 (3d Cir. 1982).

This Court respectfully requests that the Commonwealth Court consider Judge Aldisert’s astute observations when reviewing Plaintiff’s twenty-two issues. Furthermore, Pa. R.A.P. 1925(b) is not satisfied by simply filing a statement of errors however convoluted it may be. Rather, the rule requires that the statement be “concise” and coherent as to permit the trial court to understand the specific issues being raised on appeal. *Tucker v. R.M. Tours*, 939 A.2d 343, 346 (Pa. Super. 2007), *aff’d*, 977 A.2d 1170 (Pa. 2009). The rule also requires that the statement be detailed enough so that the judge can write a Rule 1925(a) opinion, but not so lengthy that it does not meet the goal of narrowing down the issues previously raised to the few that are likely to be presented to the appellate court without giving the trial judge volumes to plow through. Pa.R.A.P. 1925(b); *Arnoldy v. Forklift, L.P.*, 927 A.2d 257, 261 (Pa. Super. 2007), overruled on other grounds by *Kiak Crown Equipment Corp.*, 989 A.2d 385 (Pa. Super. 2010).

Such is clearly not the case here. With her Concise Statement, Plaintiff has failed to conform to this mandate. Case law has held that when appellants raise an “outrageous” number of issues in their 1925(b) statement, appellants have “deliberately circumvented the meaning and purpose of Rule 1925(b) and ha[ve] thereby effectively precluded appellate review of the issues [they] now seek to raise.” See *Tucker*, 939 A.2d at 346 (citing *Kanter v. Epstein*, 866 A.2d 394, 401 (Pa. Super. 2004), *appeal denied*, 880 A.2d 1239 (Pa. 2005)). When considering the two-page briefing limitations in Pa. R.A.P. 2116(a), “voluminous” statements of error do not identify the issues that appellants actually intend to raise on appeal and, thus, hinder a meaningful review, *Kanter*, 866 A.2d at 401, and make it all but impossible for the trial court to provide a comprehensive analysis of the issues. *Jones v. Jones*, 878 A.2d 86, 90 (Pa. Super. 2005). Here, Plaintiff is simply engaging in gamesmanship when she attempts to overwhelm the trial Court by filing a Rule 1925(b) statement that contains a multitude of issues that she does not intend to raise and/or cannot raise before the appellate court. There comes a point when too much is simply too much. Because Plaintiff’s Concise Statement is not concise, it does not aid the Court in focusing on the issues she plans to raise on appeal.



Those issues, in Plaintiff's own words are as follows:

1. The trial court erred in granting summary judgment where genuine issues of material fact existed on the record.
2. The trial court erred in finding that no genuine issues of fact existed which precluded the entry of summary judgment.
3. The trial court erred in holding that Defendant, West Chester University, was entitled to sovereign immunity.
4. The trial court erred in holding that the real estate exception to sovereign immunity did not apply to the subject defective stairs.
5. The trial court erred in granting summary judgment on the basis that sovereign immunity barred any recovery by Plaintiff.
6. The trial court erred in determining there was no genuine issue of fact as to whether Defendant, West Chester University, owed a duty of care to Plaintiff, Joanne Frank-Budow.
7. The trial court erred in determining there was no genuine issue of fact as to whether Defendant, West Chester University, breached its duty of care to Plaintiff, Joanne Frank-Budow.
8. The trial court erred in determining there was no genuine issue of fact as to whether the stairs on which Plaintiff, Joanne Frank-Budow, slipped and stumbled down constituted a defective and dangerous condition of the premises for which Defendant, West Chester University, was liable.
9. The trial court erred in determining there was no genuine issue of fact as to whether Defendant, West Chester University, had actual notice of the defective and dangerous condition of the stairs on which Plaintiff, Joanne Frank-Budow, slipped and stumbled down.
10. The trial court erred in granting summary judgment to the University based on sovereign immunity because the defective, uneven steps fall within the real property exception to sovereign immunity.
11. The trial court erred in granting summary judgment to the University on the alternative grounds of assumption of the risk.
12. The trial court erred in finding that Plaintiff, Joanne Frank-Budow, assumed the risk because she knew of the general conditions of the stairs.

13. The trial court improperly held that Plaintiff, Joanne Frank-Budow assumed the risk without considering whether Plaintiff had alternate ways to exit the building.
14. The trial court erred by assuming that Plaintiff, Joanne Frank-Budow, had other ways to exit the building, i.e., alternative ways of ingress and egress, which is absent from the record.
15. The trial court erred in determining there was no genuine issue of fact as to whether Plaintiff, Joanne Frank-Budow, assumed the risk.
16. The trial court erred in determining there was no genuine issue of fact as to whether Plaintiff, Joanne Frank-Budow, faced the risk voluntarily.
17. The trial court erred in its consideration of Plaintiff's expert testimony.
18. The trial court erred in finding that there was no code violation by the University and that the subject steps were not in violation of the Property Maintenance Code.
19. The trial court erred in finding that the Property Maintenance Code cited by Plaintiff was not applicable to the building and steps at issue in this case.
20. The trial court erred in determining there was no genuine issue of fact as to whether the University had maintained the subject stairs in accordance with the applicable code.
21. The trial court erred in granting summary judgment when Plaintiff, Joanne Frank-Budow, was injured by a fixture of real estate owned and maintained by the Defendant, West Chester University.
22. The trial court erred in granting summary judgment on the basis that Plaintiff, Joanne Frank-Budow, assumed the risk of using the subject stairs without considering whether she had alternative means of ingress and egress to the building.

Pl.'s Concise Statement, 9/14/17, at §§ 11-32.

As the Court will explain, Plaintiff's assignments of error are either waived or lack arguable merit and, therefore, can form no basis for a successful appeal. Before addressing any of Plaintiff's cognizable claims, we first briefly explain why several of the assignments of error are waived.

Assignments of error one, two, six, seven, eight, eleven, fifteen, seventeen, and twenty are waived for lack of specificity. These vague issues deprive the Court of meaningful review. Rule 1925(b) authorizes a trial court to order an appellant to file a Statement. Pa. R.A.P. 1925(b). Failure to comply with a Rule 1925(b) order may be considered by the appellate court as a waiver of all objections to the order, ruling or other matter complained of. *Commonwealth v. Lord*, 719 A.2d 306 (Pa. 1998). When a court has to guess what issues a party is appealing, that is not enough for meaningful review. Moreover, when a party fails adequately to identify in a concise manner the issues sought to be pursued on appeal, the trial court is impeded in its preparation of a legal analysis which is pertinent to those issues. Stated differently, a concise statement which is too vague to allow the court to identify the issues raised on appeal is the functional equivalent of no concise statement at all. See *Caln Nether Co., L.P. v. Bd. of Sup'rs, Thornbury Twp.*, 840 A.2d 484, 490 (Pa. Cmwlth. 2004; *Commonwealth v. Brunk*, No. 235 C.D. 2015, 2015 WL 7200937, at \*4 (Pa. Cmwlth. Nov. 16, 2015) (citing *Commonwealth v. Dowling*, 778 A.2d 683, 686–87 (Pa. Super. 2001); see also, *Lineberger v. Wyeth*, 894 A.2d 141, 148 (Pa. Super. 2006) (quotation omitted) (concluding that appellate review was waived where the “Concise Statement was not specific enough for the trial court to identify and address the issue Appellant wished to raise on appeal”).

Here, Plaintiff’s failure to indicate which disputed issues of material fact she contends existed prevents the Court from adequately reviewing many of the claims. Likewise, Plaintiff’s boiler-plate assertion that the Court erred in considering Plaintiff’s expert’s testimony does not aid in our review. The record is devoid of any testimony by Plaintiff’s expert. Rather, the Court considered the report authored by Plaintiff’s expert when it granted summary judgment in favor of WCU. Because Plaintiff has failed to identify with specificity any perceived error by the Court regarding this issue, we deem it waived. Furthermore, assignment of error twenty fails to identify with specificity which applicable code Plaintiff contends the subject staircase violated. Finally, we note that assignment of error twenty-two will not be addressed as it is subsumed in issues twelve, thirteen and fourteen. Accordingly, we write no further on these issues.

In the interest of judicial economy, we next collectively address assignments of error three, four, five, ten and twenty-one. To summarize, Plaintiff contends in these assignments of error that the Court erred in holding that WCU was entitled to sovereign immunity and that the real estate exception to sovereign immunity did not apply to the subject staircase. As we will explain, both arguments are misplaced.

Here, it is beyond dispute that WCU is a Commonwealth agency. See *Po-liskiewicz v. E. Stroudsburg Univ.*, 536 A.2d 472, 474 (Pa. Cmwlth. 1988) (holding that the defense of sovereign immunity is generally available to state university). Having determined that WCU is a Commonwealth agency, the next step is to analyze Plaintiff’s claims in the context of both negligence and the statutory exceptions to Sovereign Immunity to determine if she has a viable cause of action.

It is well established that under the Sovereign Immunity Act, the Commonwealth and related local governmental entities are immune from premises liability suits in most circumstances. Immunity, however, may be set aside under certain exceptions. *See* 42 Pa.C.S.A. § 8521(a). Sovereign immunity is only waived for damages arising out of a negligent act where the common law or a statute would permit recovery if the injury were caused by a person not protected by sovereign immunity **and** the cause of action falls under one of the specifically enumerated exceptions to immunity. 42 Pa.C.S.A. § 8522 (emphasis added).

Only the “real estate” exception is relevant in the present case. Under this exception, the injury must have been caused by a dangerous condition derived from defective realty or a defect in the realty’s construction, maintenance, repair or design. 42 Pa.C.S.A. § 8522(b)(3). The dangerous condition must derive from the “realty itself.” *Jones v. SEPTA*, 772 A.2d 435, 444-45 (Pa. 2011). Exceptions to sovereign immunity are to be strictly construed in this Commonwealth because of the clear legislative intent to insulate government from exposure to tort liability. *Dean v. Com., Dept. of Transp.*, 751 A.2d 1130, 1132 (Pa. 2000).

Here, Plaintiff mistakenly argues that the Court held that the “real estate” exception did not apply. However, this contention is belied by the record. In the August 3, 2017 Order granting summary judgment, the Court only concluded that a disputed issue of material fact existed concerning whether the “real estate” exception applied. Contrary to Plaintiff’s contention, the Court did not find that the “real estate” exception was inapplicable in this case. Although the Court concluded that a disputed issue of material fact existed concerning whether the alleged dangerous condition derived from the realty itself, this did not end the analysis or preclude the entry of summary judgment.

Under the second requirement imposed by 42 Pa.C.S.A. § 8542(a)(2), *supra*, Plaintiff had to demonstrate that the injury was caused by the negligent acts of the agency or an employee acting within the scope of his office or duties. WCU is clearly entitled to summary judgment because Plaintiff cannot establish a cause of action for negligence. Phrased differently, even assuming that “real estate” exception to sovereign immunity applied; Plaintiff’s negligence claim still fails. A plaintiff must meet the threshold requirement that the alleged damages would be recoverable under the common law or a statute against a party not protected by sovereign immunity by proving the following elements of common law negligence: (1) the defendant’s owed a duty of care or obligation recognized by law to plaintiff; (2) a breach of that duty; (3) a causal connection between the defendant’s conduct and the resulting injury; and (4) actual damages. *Moon v. Dauphin Cty.*, 129 A.3d 16, 21 (Pa. Cmwlth. 2015), *appeal denied*, 138 A.3d 7 (Pa. 2016); *Brown v. Dep’t of Transp.*, 11 A.3d 1054, 1056 (Pa. Cmwlth. 2011); *Talarico v. Bonham*, 650 A.2d 1192, 1195-96 (Pa. Cmwlth. 1994).

The standard of care a possessor of land owes to one who enters upon the land depends upon whether the person entering is a trespasser, licensee, or invitee.” *Carrender v. Fitterer*, 469 A.2d 120, 123 (Pa. 1983). Here, the record

reveals, and the parties agree, Plaintiff was an invited guest of WCU, as she was a registered full-time student at the university. Under the Restatement (Second) of Torts § 332(3), an invitee includes a “business visitor... who is invited to enter or remain on land for a purpose directly or indirectly connected with business dealings with the possessor of the land.” See *Geier v. Bd. of Pub. Educ. of the Sch. Dist. of Pittsburgh*, 153 A.3d 1189, 1199 (Pa. Cmwlth. 2017) (citing *Gutteridge v. A.P. Green Servs., Inc.*, 804 A.2d 643, 655–56 (Pa. Super. 2002); Restatement (Second) of Torts § 332 (1965)). Accordingly, it is beyond dispute that Plaintiff was an invitee at the time of the incident.

Having established that Plaintiff was an invitee, we now set forth the duty of care owed to such an individual. Possessors of land owe a duty to invitees to protect them from foreseeable harm. *Carrender*, 469 A.2d at 123 (citing Restatement (Second) of Torts §§ 341A, 343 and 343A (1965)). Regarding conditions on the land which are either known to or discoverable by the possessor, the possessor is subject to liability only if he:

- (a) knows or by the exercise of reasonable care would discover the condition, and should realize that it involves an unreasonable risk of harm to such invitees, and
- (b) **should expect that they will not discover or realize the danger, or will fail to protect themselves against it, and**
- (c) fails to exercise reasonable care to protect them against the danger.

Restatement (Second) of Torts § 343 (emphasis added).

Section 343A of the Restatement expands upon the significance of dangers that are known or obvious to an invitee:

A possessor of land **is not liable** to his invitees for physical harm caused to them by any activity or condition on the land whose **danger is known or obvious to them**, unless the possessor should anticipate the harm despite such knowledge or obviousness.

Restatement (Second) of Torts § 343A (emphasis added).

In adopting Section 343A of the Restatement (Second) of Torts, the Pennsylvania Supreme Court explained the relationship between the doctrine of assumption of risk and the possessor’s duty of care, or lack thereof:

It is precisely because the invitee assumes the risk of injury from obvious and avoidable dangers that the possessor owes the invitee no duty to take measures to alleviate those dangers. Thus, to say that the invitee assumed the risk of injury from a known and avoidable danger is simply another way of expressing the lack of any duty on the part of the possessor to protect the invitee against such dangers.

*Carrender*, 469 A.2d at 125.

Further, the Supreme Court defined the terms “known” and “obvious” as follows:

A danger is deemed to be obvious when both the condition and the risk are apparent to and would be recognized by a reasonable man, in the position of the visitor, exercising normal perception, intelligence, and judgment. For a danger to be known, it must not only be known to exist, but ... also be recognized that it is dangerous and the probability and gravity of the threatened harm must be appreciated. Although the question of whether a danger was known or obvious is usually a question of fact for the jury, the question may be decided by the court where reasonable minds could not differ as to the conclusion.

*Carrender*, 469 A.2d at 123–24 (quotations and citations omitted).

In the present case, the evidence offered by Plaintiff in support of her negligence claim is legally insufficient for several reasons. First, assuming arguendo, Plaintiff could establish that the staircase constituted a dangerous or defective condition, WCU, as a Commonwealth party, must have actual or constructive knowledge of a defect to be liable in a negligence action brought under the statute providing an exception to sovereign immunity for a dangerous condition on Commonwealth real estate. 42 Pa.C.S.A. § 8522(b)(3); *Com, Dep’t of Transp. v. Patton*, 686 A.2d 1302 (Pa. 1997). Here, in its motion for summary judgment, WCU claimed that it did not have actual or constructive notice of a dangerous condition resulting from the staircase and, therefore, had statutory immunity. This Court agreed with WCU’s contention inasmuch as the record failed to establish actual notice.<sup>3</sup> However, this was not fatal to Plaintiff’s cause of action because a jury could infer that WCU had constructive notice of the alleged defect in the staircase.<sup>4</sup>

Before a Commonwealth party can be charged with constructive notice of a dangerous condition, that condition must have been apparent upon a reasonable

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<sup>3</sup> For example Plaintiff failed to demonstrate that WCU conducted any repairs or maintenance activities to the staircase prior to the incident. (See N.T., 2/2/17, at 14-17); (N.T., 9/27/16, at 52-55). Additionally, the record is devoid of any evidence of complaints, reports of problems, or concerns received by WCU that could be deemed actual notice under the law. Accordingly, a jury cannot infer actual **notice** from the record in this case.

<sup>4</sup> In assignment of error nine, Plaintiff contends that the Court erred in determining there was no genuine issue of fact as to whether WCU had actual notice of the defective and dangerous condition of the stairs. Once again, Plaintiff fails to indicate which disputed issue of fact existed. Moreover, logic dictates that any perceived error is *de minimis* and the Plaintiff has failed to demonstrate prejudice as the Court concluded that WCU may have had constructive knowledge of the alleged defect in the staircase. In other words, since summary judgment was not granted for lack of notice, Plaintiff could not have been prejudiced and, therefore, any error would be harmless. Consequently, any alleged error that may have occurred concerning actual notice was harmless error not justifying the overturning of this Court’s order granting summary judgment. See *generally Commonwealth v. Romero*, 722 A.2d 1014, 1019 (Pa. 1999) (standing for the proposition that a harmless error does not warrant reversal).

inspection. See *Good v. City of Philadelphia*, 6 A.2d 101, 102 (Pa. 1939); *Miranda v. City of Philadelphia*, 646 A.2d 71 (Pa. Cmwlth. 1994); Restatement (Second) of Torts § 332 (1965). Here, the Court found that the record revealed a disputed issue of material fact as to whether WCU had constructive knowledge of the condition of the staircase. Specifically, in her deposition, Plaintiff stated that the staircase was well known to be in poor condition, especially among the student population. (N.T., 9/27/16, at 53-54). Further, James Lewis, the Associate Vice President of WCU Facilities, testified that he is responsible for the upkeep of the buildings, grounds, maintenance and custodial [duties].” Mr. Lewis further stated that he is familiar with the subject staircase and that it is approximately 65-70 years old. Mr. Lewis further acknowledged that at the time of the incident the staircase was “cupped” from every day wear and tear. (N.T., 2/2/17, at 16-17). Thus, it reasons that WCU may have had constructive notice of the condition of the staircase via routine inspections performed by Mr. Lewis and the general complaints among the student body.

Although assignments of error six and seven are waived for lack of specificity, we will address them to the extent that we are able to do so. In these assignments of error, Plaintiff contends that the Court erred in determining there was no disputed issue of material fact concerning whether WCU owed a duty of care to Plaintiff and whether WCU breached that said duty. We disagree as Plaintiff’s contentions are devoid of arguable merit.

Even assuming *arguendo* that WCU had constructive notice of the alleged defective or dangerous staircase, it did not breach a duty of care to Plaintiff. The record, when viewed in the light most favorable to Plaintiff, establishes that the hazard was foreseeable and that WCU would normally be obligated to remedy the staircase, if it were not for the compelling uncontroverted facts that it was an obvious condition. WCU had no duty to protect Plaintiff from an obvious hazard of a worn or uneven step. Plaintiff was extremely familiar with the subject stairway located in Anderson Hall as she attended WCU for at least two years prior to the incident. (N.T., 9/27/16, at 11). Plaintiff described the subject staircase as “worn and faded from everyday use.” (*Id.* at 27). Plaintiff admitted that it was an uneven step that caused the incident. (*Id.* at 31-39). Plaintiff also testified that prior to the incident she had heard people make complaints about the stair case, and that “everybody knew what the steps were like . . . that you could hurt yourself on those steps.” (*Id.* at 53-54). Given this testimony, it was reasonable for WCU to conclude that Plaintiff would anticipate and appreciate the condition of the staircase. Since the hazard here was both obvious and known to Plaintiff, we concluded as a matter of law that WCU was under no duty to warn Plaintiff of the potential hazardous condition of the staircase, or take other steps to protect her. The record is further devoid of any evidence that WCU should have anticipated the harm to Plaintiff or that Plaintiff would fail to appreciate the danger despite such knowledge or obviousness. As such, WCU had no duty to warn or take other steps to protect Plaintiff from the obvious and foreseeable condition of the staircase and

her voluntary use of it. Accordingly, assignments of error six and seven fail on the merits.

Even assuming *arguendo* that WCU owed Plaintiff a duty of care; Plaintiff's negligence claim still fails. A review of the record fails to establish that an unsafe condition existed either prior to or at the time of the incident. In response to discovery requests, Plaintiff identified and produced a report authored by John A. Nawn (the "Nawn Report"), an expert in civil engineering. *See* Def.'s MSJ, Ex. D. However, the Nawn Report is insufficient to establish negligence for several reasons. In the Complaint, Plaintiff avers that the incident occurred on November 2, 2013. Plaintiff's expert did not examine the staircase until April 24, 2017, approximately three and one half (3 1/2) years after the incident. Mr. Nawn acknowledged in his report that the purpose of the examination was to observe the conditions, obtain measurements and take photographs of the staircase. The record is devoid of any evidence that when the staircase was examined by Mr. Nawn it was in the same or similar condition as when the alleged incident occurred. Accordingly, the condition of the staircase in April of 2017 is not relevant to Plaintiff's cause of action that accrued in 2013.

Additional aspects of the Nawn Report also render it legally insufficient. We note that the admission of expert testimony is a matter of discretion for the trial court and will not be remanded, overruled or disturbed unless there was a clear abuse of discretion. *Commonwealth v. Walker*, 92 A.3d 766, 772 (Pa. 2014). An abuse of discretion occurs if the trial court's decision is manifestly unreasonable, is the result of prejudice, bias, or ill will, or constitutes a clear error of law. *Id.* at 772-73 (citation omitted); *Fraternal Order of Police, Lodge 5 v. City of Philadelphia*, 635 A.2d 222 (Pa. Cmwlth. 1993), *petition for allowance of appeal denied*, 645 A.2d 1319 (Pa. 1994); *Bodnar v. Columbia Cty. Sanitary Admin. Comm.*, 414 A.2d 735 (Pa. Cmwlth. 1980).

Furthermore, it is well-established that expert testimony is incompetent if it lacks an adequate basis in fact. *Kimberly Clark Corp. v. Workers' Comp. Appeal Bd. (Bromley)*, 161 A.3d 446, 467 (Pa. Cmwlth. 2017), reargument denied (July 7, 2017) (citing Pa.R.E. 703); *Viener v. Jacobs*, 834 A.2d 546, 558 (Pa. Super. 2003). "While an expert's opinion need not be based on absolute certainty, an opinion based on mere possibilities is not competent evidence. This means that expert testimony cannot be based solely upon conjecture or surmise." *Viener*, 834 A.2d at 558. Rather, "[an expert's] assumptions must be based upon such facts as the jury would be warranted in finding from the evidence." *Id.* Accordingly, the Pennsylvania Rules of Evidence prescribe a threshold for admission of expert testimony dependent upon the extent to which the expert's opinion is based on facts and data. Rule 703 states as follows:



The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible

Pa.R.E.703. in evidence.

Here, there is nothing but speculation, conjecture, or surmise contained in the self-serving Nawn Report by which a jury could determine which step Plaintiff tripped on. (*See* N.T., 9/27/16, at 49). Plaintiff merely testified that she fell prior to reaching the landing on the staircase but did not know which step caused her to trip and fall. (*Id.* at 33). Plaintiff attempted to estimate the number of steps she traversed immediately prior to the incident by stating, “A few, I was closer to the bottom than I was at the top . . . six, seven [steps] . . . this is an estimate.” (*Id.* at 31-32). Clearly, Rule 703 and the relevant authority require a greater foundation for the opinion and conclusions of an expert witness than a party’s “estimate.” Nevertheless, Plaintiff’s inability to identify with specificity which step she tripped on did not end our analysis.

The Nawn Report offers little more than a conclusory opinion on the issue of whether the walking surfaces of the stair treads were eroded such that the walking surfaces were sloped more than two percent (2%), thereby creating a hazardous walking condition for Plaintiff. The Nawn Report fails to adequately explain the significance of the two percent (2%) figure or identify any applicable authority in support of the recognized and accepted standard of erosion at the time of the incident. Rather, expert’s report mistakenly attempts to measure the stair-tread erosion in April of 2017, and to rely upon the inapplicable Pennsylvania Uniform Construction Code (“PUCC”), International Building Code (“IBC”) and the American Society for Testing and Materials (“ASTM”) to establish the reasonable and customary standards of the industry for safe walking surfaces. It is important to point out that the PUCC presently follows the 2009 and 2012 IBC which only apply at the time of construction. We reiterate that the Associate Vice President of WCU Facilities testified that the subject staircase is approximately 65-70 years old and that any depressions would have been caused from normal wear and tear. (N.T., 2/2/17, at 16-17). Therefore, this is not a case involving new construction and the standards of the PUCC and IBC are irrelevant.

We acknowledge that the Nawn Report also attempts to rely upon the fact that the Borough of West Chester formally adopted the International Property Maintenance Code, (“IPMC”, 2012 Ed.) as the Property Maintenance Code (“PMC”), and that as a means of egress, the staircase was subject to the PMC time of the incident. However, under the provisions of the PMC, WCU only had a responsibility to ensure that the “walking surface of any aisle, passageway, stairway, exit or other means of egress is [not] so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.” *See* Property Maintenance Code 2012, Section 108.15.

The Nawn Report goes on to speculate that at the time of the incident, the stairway was not maintained consistent with the reasonable and customary standards set forth in the PMC. The expert's opinion of improper maintenance is unsupported by any engineering analysis or other substantive authority. No evidence was presented to establish what, if any, maintenance activities WCU performed or should have performed to the stairway. The record merely establishes that in November 2013 the stairway was obviously "cupped" from every day wear and tear. (*See* N.T., 2/2/17, at 17); *See also, Adams v. J. C. Penney Co.*, 657, 192 A.2d 218, 220 (Pa. 1963) (explaining the mere fact that steps in a department store might be slightly worn or smooth, of itself is not negligence, nor is the mere happening of an accident evidence of negligence).

Along similar lines, there is nothing in the record but the expert's conclusion by which a jury could determine the basis or methodology utilized to arrive at this opinion. Beyond the expert's conclusory statement that the walking surfaces were sloped more than two percent when examined, the Nawn Report is lacking in specificity as to the erosion percentage at the time of the incident. The expert relied upon no data from 2013 in reaching his conclusion. *See* Pa.R.E. 704 (stating that if an expert states an opinion the expert must state the facts or data on which the opinion is based.). The gatekeeping role of the court is essential to the jury's function. Scientific methodology and conclusions must initially be scrutinized by the court to ensure that what might appear to the jury to be science is not in fact speculation in disguise. *Betz v. Pneumo Abex, LLC*, 44 A.3d 27, 45 (Pa. 2012). Consequently, the Nawn Report is legally insufficient to establish liability under the PMC.

The opinion contained in the Nawn Report that the action and/or inaction of WCU caused the incident is both improper and inadmissible at trial. It is well-established that opinion evidence, whether of experts or lay witnesses, is judicially disclaimed when it goes to the "ultimate issue" in the case. *Kozak v. Struth*, 531 A.2d 420, 422 (Pa. 1987) (stating that in Pennsylvania, experts have not been permitted to speak generally to the ultimate issue nor to give an opinion based on conflicting evidence without specifying which version they accept. These principles have been designed to permit the expert to enlighten the jury with his special skill and knowledge but leave the determination of the ultimate issue for the jury after it evaluates credibility). The rationale for this bar is that such an opinion impermissibly invades the province of the jury and usurps its fact-finding function. *Id.* Because the Nawn Report is unable to establish causation, WCU is also entitled to summary judgment.

We next collectively address assignments of error eighteen, nineteen, and twenty. In these assignments of error Plaintiff contends that the trial Court erred in finding that the Property Maintenance Code ("PMC") was inapplicable and that the staircase did not constitute a Code violation. Once again, Plaintiff mistakenly asserts that the Court held that the PMC did not apply to this case. This contention is also clearly belied by the record. In the August 3, 2017 Order granting

summary judgment, the Court unequivocally acknowledged that the PMC was adopted by the Borough of West Chester and was applicable at the time of the incident. However, the Commonwealth Court has held that there is no duty for a defendant to upgrade or retrofit a building to be compliant with current codes. See *Kiehner v. Sch. Dist. of Philadelphia*, 712 A.2d 830, 832 (Pa. Cmwlth. 1998) (citations omitted). Here, Plaintiff failed to establish that WCU had a duty to retrofit or remodel Anderson Hall to bring it in compliance with the current PMC. Even assuming arguendo WCU had a duty to upgrade or retrofit Anderson Hall so that it complied with the current building code; the record is devoid of evidence establishing that at the time of the incident, the stairway was not maintained consistent with the reasonable and customary standards set forth in the PMC.

A plaintiff cannot survive summary judgment when mere speculation would be required for the jury to find in plaintiff's favor. A jury is not permitted to find that it was a defendant's negligence that caused the plaintiff's injury based solely upon speculation and conjecture; there must be evidence upon which logically its conclusion must be based. *Fitzpatrick v. Natter*, 961 A.2d 1229, 1239 (Pa. 2008) (citing *Kuisis v. Baldwin-Lima-Hamilton Corp.*, 319 A.2d 914, 922 (Pa. 1974) (plurality on this point)); *Steiner v. Pittsburgh Railways Co.*, 204 A.2d 254, 256 (Pa. 1964); *Robbins v. Kaufman*, 202 A.2d 826, 827 (Pa. 1964). In fact, the trial court has a duty to prevent questions from going to the jury which would require it to reach a verdict based on conjecture, surmise, guess or speculation. Additionally, a party is not entitled to an inference of fact that amounts merely to a guess or conjecture. *Bohner v. E. Exp., Inc.*, 175 A.2d 864, 868 (Pa. 1961). Because Plaintiff's expert relied upon no data from 2013 in reaching his conclusions, a violation of the PMC cannot be established. Accordingly, Plaintiff cannot establish a *prima facie* case of negligence.

Insofar as assignments of error twelve, thirteen, fourteen, and sixteen are concerned, they do not entitle Plaintiff to relief. In these assignments of error, Plaintiff contends that the Court erred in finding that Plaintiff assumed the risk because she knew of the general conditions of the subject staircase. Plaintiff further contends that the Court improperly held that she assumed the risk without considering whether she had other ways to exit the building. As we will explain, Plaintiff's contentions do not entitle her to relief.

In its motion for summary judgment, WCU asserted that Plaintiff assumed the risk of her injuries by proceeding in the face of the alleged obvious hazard. The Court agreed and granted summary judgment in the alternative on this basis. The record established that Plaintiff not only knew of the existence of the worn step, but also appreciated the risk associated with the condition by traversing the staircase many times prior to the incident, including on the morning in question.

The Restatement (Second) of Torts sets forth the doctrine of assumption of risk at §§ 496A–496G. Assumption of risk is established as a matter of law “only where it is beyond question that the plaintiff voluntarily and knowingly proceeded

in the face of an obvious and dangerous condition.” A danger is deemed to be “obvious” when “both the condition and the risk are apparent to and would be recognized by a reasonable man, in the position of the visitor, exercising normal perception, intelligence, and judgment.” Restatement, *supra*, § 343A comment b. For a danger to be “known,” it must “not only be known to exist, but ... also be recognized that it is dangerous and the probability and gravity of the threatened harm must be appreciated.” *Id.* Although the question of whether a danger was known or obvious is usually a question of fact for the jury, the question may be decided by the court where reasonable minds could not differ as to the conclusion. *See* Restatement, *supra*, § 328B comments c and d. Voluntariness is established only when the circumstances manifest a willingness to accept the risk. *See Carrender*, 469 A.2d at 125.

Mere contributory negligence does not establish assumption of the risk. *Fish v. Gosnell*, 463 A.2d 1042, 1049 (Pa. Super. 1983). Rather, a plaintiff has assumed the risk where she has gone so far as to abandon his right to complain and has absolved the defendant from taking any responsibility for the plaintiff’s injuries. *Id.*; *Struble v. Valley Forge Military Acad.*, 665 A.2d 4, 6 (Pa. Super. 1995). In order to prevail on assumption of risk, the defendant must establish both the awareness of the risk prong and the voluntariness prong. *See Carrender*, 469 A.2d at 123–24; *see also Rutter v. Ne. Beaver Cty. Sch. Dist.*, 437 A.2d 1198, 1203 (Pa. 1981).

As previously noted, a plaintiff will not be precluded from recovering except where it is beyond question that he voluntarily and knowingly proceeded in the face of an obvious and dangerous condition and thereby must be viewed as relieving the defendant of responsibility for his injuries. *See Howell v. Clyde*, 620 A.2d 1107, 1113 (Pa. 1993); *see also Staub v. Toy Factory, Inc.*, 749 A.2d 522 (Pa. Super. 2000). Here, a conscientious review of the record reveals that there was nothing covering the staircase and Plaintiff’s own testimony establishes that she observed and understood the conditions of the staircase before she voluntarily traversed the staircase many times, including on the morning of the incident. (N.T., 2/2/17, at 16-17); (N.T., 9/27/16, at 53-54). Thus, we concluded that Plaintiff had actual knowledge of the obvious hazard before she tripped and fell on the staircase. There was no question that Plaintiff appreciated the known and obvious risk but proceeded to voluntarily traverse the staircase. Under these circumstances, it can be said, as a matter of law, Plaintiff assumed the risk of sustaining her injuries. Accordingly, WCU’s motion for summary judgment was granted, in the alternative, on this basis.

Finally, Plaintiff contends in assignment of error thirteen, that the Court erred in granting summary judgment without considering whether Plaintiff had alternative ways to enter or exit the building. We emphasize that is not the threshold issue that must be decided. Rather, to grant summary judgment on the basis of assumption of the risk it must first be concluded, as a matter of law, that the party consciously appreciated the risk that attended a certain endeavor,

assumed the risk of injury by engaging in the endeavor despite the appreciation of the risk involved, and that the injury sustained was, in fact, the same risk of injury that was appreciated and assumed. Here, all of the elements are present warranting the entry of summary judgment. By voluntarily proceeding to encounter a known or obvious danger, Plaintiff is deemed to have agreed to accept the risk and to undertake to look out for herself. Although there was no dispositive evidence introduced that Plaintiff had any appropriate alternative means of ingress or egress available to her, logic dictates that Anderson Hall, a university building containing classrooms, would have another staircase or handicap accessible elevator available to its invitees. Specifically, Plaintiff never testified that she was unable to utilize another means to enter or exit the building and, therefore, was forced to use the subject staircase as her sole means of ingress and egress to Anderson Hall. Plaintiff's failure to establish or raise a fact in the record does not make its absence material. Rather, the fact must be assumed as non-material.

However, even assuming *arguendo* that a genuine issue of material fact existed as to whether Plaintiff assumed the risk of her injury because, viewing the record in the light most favorable to Plaintiff, the steps upon which she fell may have been the sole usable means of egress and ingress to the property; Plaintiff's negligence claim still fails for the reasons already discussed above.

For the reasons set forth in this Opinion, it is respectfully requested that the decisions of this Court be affirmed.

BY THE COURT:

/s/ William P. Mahon, J.

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**CHANGE OF NAME NOTICE**

**IN THE COURT OF COMMON PLEAS  
CHESTER COUNTY, PENNSYLVANIA  
CIVIL ACTION**

**LAW NO. 2020-02686-NC**

NOTICE IS HEREBY GIVEN that the name change petition of Susanne Xuanhui Wang was filed in the above-named court and will be heard on Monday, July 27, 2020 at 10:00 AM, in Courtroom 1 at the Chester County Justice Center, 201 West Market Street, West Chester, Pennsylvania.

Date of filing the Petition: Friday, March 13, 2020

Name to be changed from: Susanne Xuanhui Wang to: Susanne Wayne

Any person interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

**CHANGE OF NAME NOTICE**

**IN THE COURT OF COMMON PLEAS  
CHESTER COUNTY, PENNSYLVANIA  
CIVIL ACTION**

**LAW NO. 2020-04536-NC**

NOTICE IS HEREBY GIVEN that the name change petition of Krishna Kari on behalf of minor child Gnana Shloka Kari was filed in the above-named court and will be heard on Monday, August 17, 2020 at 9:30 AM, in Courtroom 3 at the Chester County Justice Center, 201 West Market Street, West Chester, Pennsylvania.

Date of filing the Petition: Tuesday, July 14, 2020

Name to be changed from: Gnana Shloka Kari to: Shloka Gnana Kari

Any person interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

**CORPORATION NOTICE****Ed's Automotive Service Inc.**

has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

**CORPORATION NOTICE****Synergy Gymnastics, Inc.**

has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

Andrew L. Miller & Assocs.  
15 St. Asaph's Road  
Bala Cynwyd, PA 19004

**DISSOLUTION NOTICE**

Pursuant to the requirements of section 1975 of the Pennsylvania Business Corporation Law of 1988, notice is hereby given that JAMES L. LARSON, D.D.S. & ASSOCIATES, a professional corporation, is currently in the process of voluntarily dissolving.

Mark N. Suprenant, Esquire  
885 Empress Road  
P.O. Box 1816  
West Chester, PA 19382

**ESTATE NOTICES**

*Letters Testamentary or of Administration having been granted in the following Estates, all persons having claims or demands against the estate of the said decedents are requested to make known the same and all persons indebted to the said decedents are requested to make payment without delay to the respective executors, administrators, or counsel.*

**1st Publication**

**BERSTLER, JR.**, Walter F., late of West Goshen Township. Carlee D. Mokshefsky and Walter F. Ber-

stler, III, care of NANCY W. PINE, Esquire, 104 S. Church St., West Chester, PA 19382, Executors. NANCY W. PINE, Esquire, Pine & Pine, LLP, 104 S. Church St., West Chester, PA 19382, atty.

**BOWIE**, Betty Anne, a/k/a Elizabeth Anne Bowie, late of Kennett Township. Brian P. Bowie, care of D. SELAINE KEATON, Esquire, 21 W. Front Street, P.O. Box 1970, Media, PA 19063, Executor. D. SELAINE KEATON, Esquire, Halligan & Keaton P.C., 21 W. Front Street, P.O. Box 1970, Media, PA 19063, atty.

**BUCK**, Dagmar, late of West Chester. Frauke Vogel, 1361 Boot Road, Apt. 262, West Chester, PA 19380, Executrix. JOSEPH KENNEY, Esquire, Kulzer & DiPadova, 76 E. Euclid Avenue, Suite 300, Haddonfield, NJ 08033, atty.

**BUHAYAR**, Eric, late of Kennett Township. L. Peter Temple, care of DONALD B. LYNN, JR., Esquire, P. O. Box 384, Kennett Square, PA 19348, Executor. DONALD B. LYNN, JR., Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

**CHANCE**, Elisabeth R., late of Kennett Township. Steven K. Chance, Mark R. Chance and Barbara C. Stone, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Executors. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

**COCHRANE**, Sarah G., late of East Nantmeal Township. Neil W. Head, Esquire, 218 West Miner Street West Chester, PA 19382, Executor. NEIL W. HEAD, Esquire, Klein, Head, Barnes & Wood, LLP, 218 West Miner Street West Chester, PA 19382, atty.

**CONNOR, JR.**, William F., late of West Brandywine Township. William F. Connor, III and Suzanne C. Frederick, care of DOUGLAS L. KAUNE, Esquire, 120 Gay Street, P. O. Box 289, Phoenixville, PA 19460, Co-Executors. DOUGLAS L. KAUNE, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P. O. Box 289, Phoenixville, PA 19460, atty.

**CROW**, Dorothy H., a/k/a Dottie Crow, late of Tredyffrin Township. Sandra Crow Zopf, care of GEORGE H. ELSER, Esquire, 130 W. Lancaster Ave., Ste. 203, Wayne, PA 19087, Executrix. GEORGE H. ELSER, Esquire, 130 W. Lancaster Ave., Ste. 203, Wayne, PA 19087, atty.

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660, Portland, ME 04101-2480, Executor. HEIKE K. SULLIVAN, Esquire, Ballard Spahr, LLP, 1735 Market St., 51st Fl., Philadelphia, PA 19103-7599, atty.

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**GRUNWALDT**, Judith Ann, late of East Goshen Township. Joan M. Leahy, care of CAROL R. LIVINGOOD, Esquire, 130 W. Lancaster Ave., P.O. Box 191, Wayne, PA 19087-0191, Executrix. CAROL R. LIVINGOOD, Esquire, Davis Bennett Spiess & Livingood LLC, 130 W. Lancaster Ave., P.O. Box 191, Wayne, PA 19087-0191, atty.

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**KELLY**, Patrick Ryan, late of West Chester. Marjorie A. Kelly, 963 Embree Lane, West Chester, PA 19380, Administrator.

**LABOWITZ**, Lewis, late of West Goshen Township. Florence Labowitz, care of MICHAEL A. CIANCI, Esquire, 617 Swede St., Norristown, PA 19401, Administratrix. MICHAEL A. CIANCI, Esquire, Cianci Law Offices, 617 Swede St., Norristown, PA 19401, atty.

**McELVENNY**, John P., a/k/a John P. McElvenny Jr., a/k/a Jack McElvenny, late of East Goshen. John P. McElvenny III, 400 Grand Oak Lane, Exton, PA 19341, and Eileen M. Gatti, 113 Hanover Avenue, North Wales, PA 19454, Executors. JENNIFER H. WALKER, Esquire, Peak Legal Group, Ltd., 31 S. High Street, Suite 200, West Chester, PA 19382, atty.

**PLUEDDEMANN**, Albert John, late of Conchranville. Pamela Meek, 4012 Homeville Road, Conchranville, PA 19330, Executrix. JOSH BODENE, Esquire, Trinity Law, 1586 Lititz Pike, Lancaster, PA 17601, atty.

**QUINLISK**, Mary Jane, late of East Goshen Township. Francis Quinlisk, care of ROBERT S. LEVY, Esquire, 1204 Township Line Rd., Drexel Hill, PA 19026, Executor. ROBERT S. LEVY, Esquire, Cooper Schall & Levy, 1204 Township Line Rd., Drexel Hill, PA 19026, atty.

**RHODES**, Corinne, late of Oxford Borough. Deborah Cozzone, care of WINIFRED MORAN SEBASTIAN, Esquire, PO Box 381, 208 East Locust Street, Oxford, PA 19363, Administratrix. WINIFRED MORAN SEBASTIAN, Esquire, PO Box 381, 208 East Locust Street, Oxford, PA 19363, atty.

**SCHEIDT**, David, late of Exton. John Scheidt and Carol Scheidt, 1309 Amstel Way, West Chester,

PA 19380, Administrator. KEVIN J. RYAN, Esquire, Ryan Morton & Imms LLC, 220 West Gay Street, West Chester, PA 19380, atty.

**SCHOCK**, Ernestine, late of East Coventry Township. Andrew J. Schock, 437 Brianna Circle, Pottstown, PA 19465, Administrator. LEE F. MAUGER, Esquire, Mauger & Meter, 1401 East High Street P.O. Box 698 Pottstown, PA 19464, atty.

**SKURKA**, Luanne Irene, a/k/a Luanne I. Skurka, late of East Pikeland Township. Edward Davis & Sophia Davis, care of DOUGLAS L. KAUNE, Esquire, 120 Gay Street, P. O. Box 289 Phoenixville, PA 19460, Co-Executors. DOUGLAS L. KAUNE, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P. O. Box 289 Phoenixville, PA 19460, atty.

**TRAINER**, Kathryn Elaine, late of Treddyffrin Township. Suzanne Trainer, care of THOMAS J. BURKE, JR., Esquire, 15 Rittenhouse Place, Ardmore, PA 19003, Executrix. THOMAS J. BURKE, JR., Esquire, Haws & Burke, P.C., 15 Rittenhouse Place, Ardmore, PA 19003, atty.

**WHITEHEAD**, Richard D., late of West Goshen Township. Doris K. Whitehead, care of KARYN L. SEACE, Esquire, 105 East Evans Street, Evans Building, Suite A, West Chester, PA 19380, Executrix. KARYN L. SEACE, Esquire, Nescio & Seace, LLP, 105 East Evans Street, Evans Building, Suite A, West Chester, PA 19380, atty.

## 2nd Publication

**ANDRESS**, Muriel C., late of East Caln Township. Geraldine A. Wilimzig, care of JAY G. FISCHER, Esquire, 342 East Lancaster Avenue Downingtown, PA 19335, Executor. JAY G. FISCHER, Esquire, Valocchi & Fischer Law Office, 342 East Lancaster Avenue Downingtown, PA 19335, atty.

**ASHLEY**, Cathy, late of West Chester Borough. Kenneth Kimmeldorf, care of COURTNEY E. DOLAWAY, Esquire, 1835 Market St., Ste. 1050, Philadelphia, PA 19103, Administrator. COURTNEY E. DOLAWAY, Esquire, Flaster Greenberg P.C., 1835 Market St., Ste. 1050, Philadelphia, PA 19103, atty.

**BADALAMENTI**, Florence A., late of East Caln Township. Dina DeAngelis, care of MURRAY S. ECKELL, Esquire, 300 W. State St., Ste. 300, Media, PA 19063, Executrix. MURRAY S. ECKELL, Esquire, Eckell, Sparks, Levy, Auerbach, Monte, Sloane, Matthews & Auslander, PC, 300 W. State St., Ste. 300, Media, PA 19063, atty.

**BALDWIN, IV**, Henry Clay, late of Highland. Lisa JS Baldwin, 52 Beaver Dam Road, Coatesville, PA 19320, Administratrix. ALLAN GREENWOOD,

Esquire, Siana Law, 941 Pottstown Pike, Chester Springs, PA 19425, atty.

**BERTOLET**, Kenneth P., a/k/a Kenneth Paul Bertolet, late of North Coventry Township. Janet L. Reese, 3974 Cedar Drive, Walnutport, PA 18088, Executrix. LEE F. MAUGER, Esquire, Mauger & Meter, P.O. Box 698, 1401 E. High St. Pottstown, PA 19464, atty.

**BINDER**, Lorna, late of West Goshen Township. Ira D. Binder, 227 Cullen Rd, Oxford, PA 19363, Executor. Ira D. Binder, Esquire, 227 Cullen Rd, Oxford, PA 19363, atty.

**BOND**, Antionette E., a/k/a Antionette E. Saluti, late of Berwyn. Joseph M. Bond, 147 Tannery Run Circle, Berwyn, PA 19312, Administrator. MARK S. PEARLSTEIN, Esquire, Law Office of Mark S. Pearlstein, 175 Strafford Avenue, Suite One, Wayne, PA 19087, atty.

**DERRYBERRY**, Elizabeth M., late of Coatesville. Jonathan C. Redifer, care of 11 Eastbrooke Drive, Ephrata, PA 17522, Executor.

**DiCAMILLO**, Adolph Louis, late of East Whiteland Township. William D. Kennedy, 1650 Market St., One Liberty Place, Ste. 1800, Philadelphia, PA 19103-7395, Executor. WILLIAM D. KENNEDY, Esquire, White and Williams LLP, 1650 Market St., One Liberty Place, Ste. 1800, Philadelphia, PA 19103-7395, atty.

**DIEFENDERFER**, Heide Boldt, late of Schuylkill. Britta Pekofsky, 544 Red Coat Lane, Phoenixville, PA 19460, Executrix.

**EDWARDS**, Anna May, late of Caln Township. Steven A. Edwards, 615 Downingtown Pike, Apt. A-205, West Chester, PA 19380, Executor. FRANK W. HAYES, Esquire, Hayes & Romero, 31 South High Street, West Chester, PA 19382, atty.

**FUCHS**, Patricia Ann, late of Penn Township. Brian E. Fuchs, care of JOSEPH A. BELLINGHERI, Esquire, 17 W. Miner St., West Chester, PA 19382, Executor. JOSEPH A. BELLINGHERI, Esquire, MacElree Harvey, LTD., 17 W. Miner St., West Chester, PA 19382, atty.

**FURY**, Rosemarie G., a/k/a Rosemarie Fury, a/k/a Rosemarie Gunning, late of West Goshen Township. Kimberlee Myles and James Gunning IV, care of BRUCE A. HERALD, Esquire, 120 John Robert Thomas Dr, Exton, PA 19341, Executors. BRUCE A. HERALD, Esquire, Bruce Alan Herald, A Professional Corporation, 120 John Robert Thomas Dr, Exton, PA 19341, atty.

**GAITHER**, Marie, late of West Goshen Township. Antonio L. Thompson, care of ANN DUKE, Esquire, 228 Dean St., West Chester, PA 19382, Administrator. ANN DUKE, Esquire, Duke Law Offices, 228 Dean St., West Chester, PA 19382, atty.

**GOSS**, Rebecca Ashton, late of West Goshen Township. Rebecca Kennedy and Thomas A. Goss, care of KEVIN HOLLERAN, Esquire, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, Co-Executors. KEVIN HOLLERAN, Esquire, Gawthrop Greenwood, 17 E. Gay Street, Suite 100, P.O. Box 562, West Chester, PA 19381-0562, atty.

**HARTWICK**, Peggy R., late of Uwchlan. Helen Ann Brickles, 418 Baldweaton Dr., Exton, PA 19341, Executrix.

**HICKEY**, Frances R., late of East Pikeland Township. Pamela S. Leiby, 245 Beacon Drive, Phoenixville, PA 19460, Executor.

**JENSEN**, Wilhelmine, a/k/a Helen Jensen, late of Phoenixville Borough. William Jensen, 31 Wincrest Dr., Phoenixville, PA 19460, Executor.

**JENSEN**, Erik, late of Phoenixville Borough. William Jensen, 31 Wincrest Dr., Phoenixville, PA 19460, Executor.

**LEFLAR**, Donald Vincent, a/k/a Donald V. Leflar, a/k/a Donald Leflar, late of North Coventry Township. George M. Nikolaou Esq., 166 Allendale Road, King of Prussia, PA 19406, Administrator. GEORGE M. NIKOLAOU, Esquire, 166 Allendale Road, King of Prussia, PA 19406, atty.

**LISZEWSKI**, Rita C., late of Easttown Township. Denise J. Liszewski and Theodore J. Liszewski, care of KAREN CONN MAVROS, Esquire, 237 S. Bryn Mawr Avenue, Suite 100, Bryn Mawr, PA 19010, Co-Executors. KAREN CONN MAVROS, Esquire, Main Line Law Associates, 237 S. Bryn Mawr Avenue, Suite 100, Bryn Mawr, PA 19010, atty.

**LODGE**, Elizabeth Hunt, late of Westtown Township. Edmund J. Lodge, 80 Sharon Drive, Shermans Dale, PA 17090, Executor. ELIZABETH T. STEFANIDE, Esquire, Law Office of Elizabeth T. Stefanide, 339 W. Baltimore Avenue, Media, PA 19063, atty.

**MAHONEY**, Theresa A., late of Willistown Township. Dennis J. Mahoney, care of ANDREW H. DOHAN, Esquire, 460 E. King Road, Malvern, PA 19355-3049, Executor. ANDREW H. DOHAN, Esquire, LENTZ, CANTOR & MASSEY, LTD., 460 E. King Road, Malvern, PA 19355-3049, atty.

**MARRONE**, Roberta M., late of Westtown

Township. Paul D. Marrone, care of LOUIS N. TETI, Esquire, 17 W. Miner St., West Chester, PA 19382, Executor. LOUIS N. TETI, Esquire, MacElree Harvey, LTD., 17 W. Miner St., West Chester, PA 19382, atty.

**MESSANA**, Debra J., late of West Whiteland Township. Joseph C. Messina, care of LOUIS N. TETI, Esquire, 17 W. Miner St., West Chester, PA 19382, Administrator. LOUIS N. TETI, Esquire, MacElree Harvey, LTD., 17 W. Miner St., West Chester, PA 19382, atty.

**MUOIO**, Joseph, late of Kennett Square Township. Joseph Muoio, 1166 Meghan Court, West Chester, PA 19382, Executor. KENNETH C. RUSSELL, Esquire, Baratta, Russell & Baratta, 3500 Reading Way, Huntingdon Valley, PA 19006, atty.

**MUOIO**, Antoinette, late of East Marlborough Township. Joseph Muoio, 1166 Meghan Court, West Chester, PA 19382, Executor. KENNETH C. RUSSELL, Esquire, Baratta, Russell & Baratta, 3500 Reading Way, Huntingdon Valley, PA 19006, atty.

**NIELSEN**, Gary Sven, late of Spring City Borough. M. Constance Nielsen, care of ROBERT A. ALSTON, Esquire, 101 Greenwood Ave., Ste. 500, Jenkintown, PA 19046, Executrix. ROBERT A. ALSTON, Esquire, Friedman Schuman, 101 Greenwood Ave., Ste. 500, Jenkintown, PA 19046, atty.

**ORTEGA**, Opal Leora, late of Oxford Borough. George S. Ortega, Jr., 705 Lincoln St., Oxford, PA 19363, Administrator. JANNA M. PELLETIER, Esquire, 535 N. Church St., Ste. 309 West Chester, PA 19380, atty.

**O'ROURKE**, Mary Agnes, late of West Goshen Township. Eileen McMonagle, 7 Ansley Dr., Downingtown, PA 19335, Executrix. ANN DUKE, Esquire, Duke Law Offices, 228 Dean St., West Chester, PA 19382, atty.

**OSTER, SR.**, William Donald, late of West Caln Township. Wayne Alfred Bond, 5865 Shady Lane, Nazareth, PA 18064, Executor. DONALD F. KOHLER, JR., Esquire, 27 South Darlington Street, West Chester, PA 19382, atty.

**PRESTON, III**, Seymour S., late of East Goshen Township. Jean H. Preston & Shelley S. Preston, care of ANDREW H. DOHAN, Esquire, 460 E. King Road, Malvern, PA 19355-3049, Executors. ANDREW H. DOHAN, Esquire, Lentz, Cantor & Massey, LTD., 460 E. King Road, Malvern, PA 19355-3049, atty.

**REYBURN**, Luther F., late of Upper Oxford Township. Carolyn A. Reyburn, 2280 Edenton Road,

Cochranville, PA 19330, & Bruce Thompson, 4615 Newark Road, Cochranville, PA 19330, Executors. SAMUEL A. GOODLEY, III, Esquire, Sam Goodley Law LLC, PO Box 80, Oxford, PA 19363, atty.

**SIMMS**, Jacqueline Myers, late of Tredyffrin Township. Wendy C. Daniels and Joel S. Daniels, III, care of TARA M. WALSH, Esquire, 30 Valley Stream Parkway, Malvern, PA 19355, Executors. TARA M. WALSH, Esquire, Stradley, Ronon, Stevens & Young, LLP, 30 Valley Stream Parkway, Malvern, PA 19355, atty.

**SLACK**, Alan P., late of West Chester. Gail R. Rader, care of EVAN K. HAMBLETON, Esquire, 42 North High Street West Chester, PA 19380, Executor. EVAN K. HAMBLETON, Esquire, Saling, Litvin, & Hambleton, 42 North High Street West Chester, PA 19380, atty.

**SUTTON**, Terry Lee, late of West Goshen Township. Loragene I. Sutton, care of KRISTEN L. BEHRENS, Esquire, 457 Haddonfield Rd., Ste. 700, Cherry Hill, NJ 08002, Administratrix. KRISTEN L. BEHRENS, Esquire, Dilworth Paxson LLP, 457 Haddonfield Rd., Ste. 700, Cherry Hill, NJ 08002, atty.

**TAYLOR**, Irene B., late of Honey Brook Township. Robert Taylor and Patricia Taylor, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Administrators. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

**THOMPSON, JR.**, John C., late of Westtown Township. John C. Thompson, III, care of ANN DUKE, Esquire, 228 Dean St., West Chester, PA 19382, Executor. ANN DUKE, Esquire, Duke Law Offices, 228 Dean St., West Chester, PA 19382, atty.

**TINDER**, Gerald Joseph, a/k/a Gerald J. Tinder, late of East Bradford Township. Elizabeth M. Tinder, care of TOM MOHR, Esquire, 301 W. Market Street, West Chester, PA 19382, Administrator. TOM MOHR, Esquire, Tom Mohr Law Office, PC, 301 W. Market Street, West Chester, PA 19382, atty.

**WHEATLEY**, Addie E., late of Phoenixville Borough. Brenda D. Cambridge, care of TOM MOHR, Esquire, 301 W. Market Street, West Chester, PA 19382, Executor. TOM MOHR, Esquire, Tom Mohr Law Office, PC, 301 W. Market Street, West Chester, PA 19382, atty.

### 3rd Publication

**BOYLAND**, Dorothy Ann, late of West Chester Borough. Marybeth Palumbo, care of DANA M. BRESLIN, Esquire, 3350 Edgmont Ave Brookhaven,

PA 19015, Executor. DANA M. BRESLIN, Esquire, Pappano and Breslin, 3350 Edgmont Ave Brookhaven, PA 19015, atty.

**BURKE**, Margaret M., late of Chesterbrook. Joseph D. Burke, Jr., 29 N. Ormond Avenue, Haverstown, PA 19083, & Mary M. Burke, 4 Witherspoon Court, Chesterbrook, PA 19087, Executors. DAVID A. SCHWEIZER, Esquire, Maniaci, Ciccotta & Schweizer, LLP, 6720 Frankford Avenue, Philadelphia, PA 19135, atty.

**BURNA**, Olga Martis, late of West Goshen Township. Barbara Gail Pryor & Cheryl Selgrade, care of DANA M. BRESLIN, Esquire, 3350 Edgmont Ave, Brookhaven, PA 19015, Executors. DANA M. BRESLIN, Esquire, Pappano and Breslin, 3350 Edgmont Ave, Brookhaven, PA 19015, atty.

**COOPER**, SR., Donald C., late of Valley Township. Donald C. Cooper, Jr., 5208 Sunset Lane, Gap, PA 17527, Executor. WILLIAM T. KEEN, Esquire, KEEN KEEN & GOOD, LLC, 3460 Lincoln Highway, Thorndale, PA 19372, atty.

**DeMARCO**, Joseph P., late of West Caln Township. Glenn R. Allison, care of BRUCE W. LAVERTY, Esquire, 701 East Lancaster Avenue, Suite B, Downingtown, PA 19335, Executor. BRUCE W. LAVERTY, Esquire, Laverty Law Offices, 701 East Lancaster Avenue, Suite B, Downingtown, PA 19335, atty.

**GLASCO**, Earl Clarence, late of Cochranville. Wayne E. Glasco, 122 South Young Avenue, Kennet Square, PA 19348, Executor. KEVIN J. RYAN, Esquire, RMI Law, 220 W Gay Street, West Chester, PA 19380, atty.

**GUNDERSON**, Joanna Bailie, a/k/a Joanna Gunderson, late of Tredyffrin Township. Thomas Gunderson and Lucy Ann Gunderson, care of PETER E. MOSHANG, Esquire, 100 Four Falls, Ste. 300, West Conshohocken, PA 19428-2950, Executors. PETER E. MOSHANG, Esquire, Heckscher, Teillon, Terrill & Sager, P.C., 100 Four Falls, Ste. 300, West Conshohocken, PA 19428-2950, atty.

**KELSO**, Dorothy M., late of East Vincent Township. William F. Newell, III, care of MARC L. DAVIDSON, Esquire, 290 King of Prussia Rd., Ste 110, Radnor, PA 19087, Executor. MARC L. DAVIDSON, Esquire, Law Offices of Davdison & Egner, 290 King of Prussia Rd., Ste 110, Radnor, PA 19087, atty.

**KLING**, Larry K., a/k/a Larry Kenneth Kling, late of East Caln Township. Beth Ann Klementovic, care of JAY G. FISCHER, Esquire, 342 East Lancaster Avenue, Downingtown, PA 19335, Executor. Jay G.

Fischer, Esquire, Valocchi & Fischer Law Office, 342 East Lancaster Avenue, Downingtown, PA 19335, atty.

**KUSNIERCZYK**, Helen Teresa, a/k/a Helen T. Kusnierczyk, late of Valley Township. Janet L. Byrnes, 132 Haslan Lane, Coatesville, PA 19320, Executor. KATHLEEN K. GOOD, Esquire, Keen Keen & Good, LLC, 460 Lincoln Highway, Thorndale, PA 19372, atty.

**LAUME**, Dorothy A., late of West Chester. Nicolette J. Laume, care of W. PETER BARNES, Esquire, 218 West Miner Street West Chester, PA 19382, Executor. W. PETER BARNES, Esquire, Klein, Head, Barnes & Wood, LLP, 218 West Miner Street West Chester, PA 19382, atty.

**McCREESH**, Frances R., a/k/a Jean McCreeesh, a/k/a Frances F. McCreeesh, late of Tredyffrin Township. John K. McCreeesh, 7053 Terminal Square, Upper Darby, PA 19082, Executor. JOHN J. McCREESH, IV, Esquire, McCreeesh, McCreeesh and Cannon, 7053 Terminal Square, Upper Darby, PA 19082, atty.

**McDONALD**, Veronica, late of West Chester Borough. James E. McDonald, 1091 E. Boot Rd., West Chester, PA 19380, Executor. JOSEPH J. FIANDRA, Esquire, Joseph J. Fiandra, LLC, 426 N. Easton Rd., Glenside, PA 19038, atty.

**McGOVERN**, Gladys A., late of East Goshen Township. Susan P. McGovern, 500 Marshall Dr., West Chester, PA 19380, Executrix. JOHN F. McKENNA, Esquire, MacElree Harvey, LTD., 17 W. Miner St., West Chester, PA 19382, atty.

**McNALLY**, Carmella A., a/k/a Carmella Angeline McNally, late of Malvern Borough. Rosemary McNally, care of JAY G. FISCHER, Esquire, 342 East Lancaster Avenue, Downingtown, PA 19335, Executor. JAY G. FISCHER, Esquire, Valocchi & Fischer Law Office, 342 East Lancaster Avenue, Downingtown, PA 19335, atty.

**O'NEILL**, Mary Rita, a/k/a Mary R. O'Neill, late of Pennsbury Township. Francis X. McDonald, care of ANDREW H. DOHAN, Esquire, 460 E. King Road Malvern, PA 19355-3049, Executor. ANDREW H. DOHAN, Esquire, Lentz, Cantor & Massey, LTD., 460 E. King Road Malvern, PA 19355-3049, atty.

**O'BRIEN**, Emma Pitman, late of West Chester. Kathleen M Buckley, 1901 Fairfield Drive, Wilmington, DE 19810, Executor.

**PHILLIPS**, Suzanne, a/k/a Suzanne D. Phillips, late of Penn Township. Steven Phillips, care of JUSTIN C. ESPOSITO, Esquire, 3000 Two Lo-

gan Square, Philadelphia, PA 19103-2799, Executor. JUSTIN C. ESPOSITO, Esquire, Troutman Pepper Hamilton Sanders LLP, 3000 Two Logan Square, Philadelphia, PA 19103-2799, atty.

**RAPHAEL**, Edward, late of West Goshen Township. Sherman C. Toppin, 1801 Market Street, Suite 300, Philadelphia, PA 19103, Administrator. SHERMAN C. TOPPIN, Esquire, Sherman Toppin Law Firm, LLC, 1800 John F. Kennedy Blvd., Suite 300, Philadelphia, PA 19103, atty.

**RAWLE**, William Morris, late of Upper Oxford Township. Annie Merkei Rawle, care of STEPHEN J. KELLY, Esquire, 213 E. State Street, Kennett Square, PA 19348, Executrix. STEPHEN J. KELLY, Esquire, Brutscher Foley Milliner Land & Kelly, 213 E. State Street, Kennett Square, PA 19348, atty.

**RICCIO**, Anthony J., late of Phoenixville. Priscilla Buck, care of 5249 McLean Station Road, Green Lane, PA 18054, Administratrix. CHRISTOPHER P. MULLANEY, Esquire, Mullaney Law Offices, 598 Main Street, PO Box 24, Red Hill, PA 18076, atty.

**RIMROTT**, Ulrich A., late of Valley Forge. Elke Rimrott, 118 Spruce Ln., Colledgeville, PA 19426, Executrix.

**ROCHE**, Mary E., late of Tredyffrin Township. Christopher Ebel, care of ANDREW H. DOHAN, Esquire, 460 E. King Road, Malvern, PA 19355-3049, Executor. ANDREW H. DOHAN, Esquire, Lentz, Cantor & Massey, LTD., 460 E. King Road, Malvern, PA 19355-3049, atty.

**WALKER**, ROBERT D., late of East Whiteland Township. Lois A. Walker, care of ROBERT S. SUPPLEE, Esquire, 329 South High St. West Chester, PA 19382-3336, Executrix. ROBERT S. SUPPLEE, Esquire, Robert S. Supplee, P. C., 329 South High St. West Chester, PA 19382-3336, atty.

**WISE**, Paul Russel, late of East Brandywine Township. Elizabeth Sokol, care of BARRY S. RABIN, Esquire, 797 E. Lancaster Avenue Suite 13, Downingtown PA 19335, Personal Representative. BARRY S. RABIN, Esquire, The Law Firm of Barry S. Rabin, 797 E. Lancaster Avenue Suite 13, Downingtown PA 19335, atty.

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### FICTITIOUS NAME

*NOTICE is hereby given, pursuant to Fictitious Names Act of 1982, 54 Pa.C.S. Section 301 et seq., which repealed prior laws on the subject, any entity or entities (including individuals, corporations, partnership or other groups, which conduct any business in Pennsylvania under an assumed or fictitious name shall register such name by filing an*

*application for registration of fictitious name with the Department of State for the conduct of a business in Chester County, Pennsylvania under the assumed or fictitious name, style or designation of*

**Quimbee**, with its principal place of business at 9805 Statesville Road, Unit #4047, Charlotte, NC 28269. The application has been (or will be) filed on: Tuesday, June 30, 2020. The name(s) and address(es) of the individual(s) or entity(ies) owning or interested in said business: Sellers International, LLC, 9805 Statesville Road, Unit #4047, Charlotte, NC 28269.

**Taste and C**, with its principal place of business at 1387 Kirkland Ave, West Chester, PA 19380. The application has been (or will be) filed on: Thursday, June 18, 2020. The name(s) and address(es) of the individual(s) or entity(ies) owning or interested in said business: Judi Driscoll, 1387 Kirkland Ave, West Chester, PA 19380.

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### NONPROFIT CORPORATION NOTICE

**NOTICE IS HEREBY GIVEN** that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on July 1, 2020, for the purpose of forming a non-profit corporation under the Non-Profit Corporation Law of the Commonwealth of Pennsylvania.

The name of the corporation is **REACH OUT - NEPAL, INC.**

David L. Allebach, Jr., Esquire  
YERGEY.DAYLOR.ALLEBACH.  
SCHEFFEY.PICARDI  
1129 East High Street  
P. O. Box 776  
Pottstown, PA 19464-0776

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### NONPROFIT CORPORATION NOTICE

*NOTICE IS HEREBY GIVEN that an application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a charter of a Nonprofit Corporation which was organized under the provisions of the Pennsylvania Nonprofit Corporation Law of 1988.*

The name of the corporation is **Starlight Theater Inc.**

Articles of Incorporation were filed on Monday,

July 13, 2020

The purpose or purposes for which it was organized are: Promoting the Arts

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**2nd Publication of 3**

**TRUST NOTICE**

Let all persons be on notice that RUTH W. ABEL, late of West Brandywine Township, died on 3/25/20, leaving a Revocable Living Trust.

The trustee of the Revocable Living Trust is LINDA A. HULTGREN. The attorney for the trust is BARRY S. RABIN, Esquire.

All persons having claims or demands on the decedent or the trust are requested to make them known, and all persons indebted to the said decedent or trust are requested to make payment without delay. Linda A. Hultgren, c/o the Law Firm of Barry S. Rabin, 797 E. Lancaster Avenue Suite 13, Downingtown, PA 19335.

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# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## PUBLIC NOTICE FOR REAPPOINTMENT OF AN INCUMBENT MAGISTRATE JUDGE

The current term of office of United States Magistrate Judge Timothy R. Rice at Philadelphia, Pennsylvania and Reading, Pennsylvania is due to expire on March 21, 2021. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the Magistrate Judge to a new eight-year term.

The duties of a Magistrate Judge in this court include the following: (1) conduct of most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conduct of various pretrial matters and evidentiary proceedings on delegation from a district judge; and (4) trial and disposition of civil cases upon consent of the litigants.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to:

Kate Barkman, Clerk of Court  
2609 United States Courthouse  
601 Market Street  
Philadelphia, PA 19106

***ATTN: Human Resources Department  
Magistrate Judge Reappointment***

Comments must be received by August 31, 2020.

Juan R. Sánchez  
Chief Judge

Dated: July 13, 2020

# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

## PUBLIC NOTICE FOR REAPPOINTMENT OF AN INCUMBENT MAGISTRATE JUDGE

The current term of office of United States Magistrate Judge David R. Strawbridge at Philadelphia, Pennsylvania is due to expire on April 25, 2021. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the Magistrate Judge to a new eight-year term.

The duties of a Magistrate Judge in this court include the following: (1) conduct of most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conduct of various pretrial matters and evidentiary proceedings on delegation from a district judge; and (4) trial and disposition of civil cases upon consent of the litigants.

Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to:

Kate Barkman, Clerk of Court  
2609 United States Courthouse  
601 Market Street  
Philadelphia, PA 19106

***ATTN: Human Resources Department  
Magistrate Judge Reappointment***

Comments must be received by August 31, 2020.

Juan R. Sánchez  
Chief Judge

Dated: July 13, 2020



### Sheriff Sale of Real Estate

By virtue of the within mentioned writs directed to Sheriff Fredda L. Maddox, the herein-described real estate will be sold at public sale in the Chester County Justice Center at 201 W Market Street, 3rd Floor, Room 3300, West Chester, Pennsylvania, as announced on **Thursday, August 20th, 2020 at 11AM.**

Notice is given to all parties in interest and claimants that the Sheriff will file with the Prothonotary and in the Sheriff's Office, both located in the Chester County Justice Center, 201 W Market Street, West Chester, Pennsylvania, Schedules of Distribution on **Monday, September 21st, 2020.** Distribution will be made in accordance with the Schedules unless exceptions are filed in the Sheriff's Office within ten (10) days thereafter.

N.B. Ten percent (10%) of the purchase money must be paid at the time and place of sale. **Payment must be paid in cash, certified check or money order made payable to the purchaser or "Sheriff of Chester County". The balance must be made payable to "Sheriff of Chester County", within twenty-one (21) days from the date of sale by 4PM.**

**FREDDA L. MADDOX, SHERIFF**

### 2nd Publication

**SALE NO. 20-8-328**

**Writ of Execution No. 2020-00464**

**DEBT \$6,427.10**

ALL THAT CERTAIN unit, designated Number 2 Unit Number 7 being a Unit in Old Forge Crossing Condominium, Situate in the Township of Tredyffrin, County of Chester and Commonwealth of Pennsylvania, as designated in Dec-

laration of Condominium of Old Forge Crossing Condominium, bearing the date the 26th day of May A.D. 1981 and recorded in the Office for the Recording of Deeds in and for the County of Chester at West Chester, Pennsylvania on the 27th day of May A.D. 1981 and recorded on the 27th day of May A.D. 1981 in Condominium Plan Book 3516, page.

BEING KNOWN AS 7 Old Forge Crossing, Devon, Pennsylvania. PARCEL NO. 43-5-428

IMPROVEMENTS thereon: Residential Dwelling

PLAINTIFF: Old Forge Crossing Condominium Association

VS

DEFENDANT: **Michael Keefer, Executor of Estate of Mary Cameron Keefer**

SALE ADDRESS: 7 Old Forge Crossing, Devon, PA 19333

PLANTIFF ATTORNEY: **Steven L. Sugarman & Associates 610-889-0700**

**SALE NO. 20-8-329**

**Writ of Execution No. 2014-10955**

**DEBT \$140,807.81**

ALL THAT CERTAIN lot or piece of ground, Situate in the Township of North Coventry, County of Chester and Commonwealth of Pennsylvania, bounded and described according to a Plan of Martin Farm Subdivision prepared by Bursich Associates, Inc., dated 6/7/1996 last revised 311511999 and recorded as Plan No. 15041, as follows, to wit:

BEGINNING at a point on the Northeastly side of Road A (50 feet wide), a corner of Lot

No. 36 on said Plan; thence from said beginning point, leaving Road A and ex-

tending along Lot 36, North 70 degrees 56 minutes 51 seconds East, 190.84 feet to a point in line of Lot No. 46 on said plan; thence extending along Lot 46, South 19 degrees 03 minutes 09 seconds East, 105.00 feet to a point, a corner of Lot No. 38 on said plan; thence extending along Lot 38, South 70 degrees 56 minutes 51 seconds West 190.84 feet to a point on the North Easterly side of Road A, aforesaid; thence extending along Road A, North 19 degrees 03 minutes 09 seconds West, 105.00 feet to the first mentioned point and place of beginning.

Tax ID: 17-3-280.40

PLAINTIFF: U.S. Bank Trust National Association, as Trustee of Bungalow Series F

VS

DEFENDANT: **Geoffrey J. Cross and Lori J. Cross and United States**

SALE ADDRESS: 1155 Wendler Circle, Pottstown, PA 19465

PLANTIFF ATTORNEY: **Parker McCay PA 856-596-8900**

**SALE NO. 20-8-330**

**Writ of Execution No. 2018-12403**

**DEBT \$386,920.13**

All that certain lot or piece of ground with the building and improvements thereon erected, situate in the Township of Kennett, County of Chester and Commonwealth of Pennsylvania. described in accordance with a plan of property of James H. Perry and Ethelyn A. Perry (deceased), made by Howard L. Robertson, civil engineer and surveyor, Wilmington, Delaware dated November 30, 1985 as follows:

BEGINNING at a point in the Northeasterly side of the Kennett Pike, said point of Beginning being the Northeast-

erly end of a 20 foot radius intersection curve joining the said Northeasterly side of the Kennett Pike with the northwesterly side of Byron Road (50 feet wide); Thence from said point of beginning by the said Northeasterly side of Kennett Pike Keeping Parallel to and 30 feet Northeasterly of the center line thereof the following two courses and distances (1) North 38 degrees 58 minutes, 50 seconds west 144.99 feet to a point of curve to the right having a radius of 1033.22; (2) in a northwesterly direction by said curve to the right an arc distance of 97.28 feet to a point, thence by line of lands now or formerly of Sarah P. Ogden a/k/a Sara R. Ogden, unmarried the following two courses and distances; (1) North 87 degrees 23 minutes 30 seconds East 292.33 feet to a point; (2) North 23 degrees, 14 minutes, 30 seconds west, 80.00 feet to a point; thence by lot No. 2 the following two courses and distances; (1) North 66 degrees 45 minutes 30 seconds East, 37.07 feet to a point; (2) South 50 degrees 56 minutes, 2 seconds East 271.22 feet to a point in the aforementioned northwesterly side of Byron road; Thence thereby the following two courses and distances (1) in a Southwesterly direction by an arc of a curve to the left having a radius of 380 feet; an arc distance of 60 feet to a point of tangency; (2) South 53 degrees, 1 Minute, 10 seconds west, 328.42 feet to a point of curve of a 20 foot radius intersection curve to the right; Thence in a southwesterly and northwesterly direction by said curve to the right an arc distance of 31.42 feet to the place of beginning. Being No. 1 Lot on said plan.

Tax ID: 62-2-48.3

PLAINTIFF: The Bank of New York Mellon FKA The Bank of New York, as Trustee for the certificate holders of the CWABS, Inc., Asset-Backed Certificates, Series 2006-26

VS

**DEFENDANT: Victoria Perry Robinson and Michael Robinson**

**PLAINTIFF: Susquehanna Capital Management, LLC**

**SALE ADDRESS: 1 Byron Court, Chadds Ford, PA 19317**

**VS**

**DEFENDANT: Rita A. Cheung**

**PLANTIFF ATTORNEY: Parker McCay PA 856-596-8900**

**SALE ADDRESS: 771 E. Lincoln Highway, Coatsville, PA 19320**

**PLANTIFF ATTORNEY: Pillar Aught LLC 717-308-9910**

**SALE NO. 20-8-332**

**Writ of Execution No. 2019-05433**

**DEBT \$89,124.29**

ALL THAT CERTAIN lot of land, situate in the City of Coatesville, County of Chester County, State of Pennsylvania known as 771 E. Lincoln Highway, bounded and described as follows:

BEGINNING at the intersection of the West curb line of North 8th Avenue with the North curb line of East Lincoln Highway; thence along the said North curb line of East Lincoln Highway, South 80 degrees, 54 minutes West, 24.7 feet to point of other lands of the Grantors herein; thence by the same, North 9 degrees, 16 minutes West, 112 feet to the South line of private alley; thence by the same, North 80 degrees, 54 minutes East, 24.7 feet to the West curb line of North 8<sup>th</sup> Avenue; thence by the same, South 9 degrees, 16 minutes East, 112.00 feet to the point or place of beginning.

BEING the same premises which Igor Pronin and Alia Pronin, husband and wife, Dmitry Pronin and Tanya Pronin, aka Tatyana Pronin, husband and wife, by Indenture dated November 20, 2004 and recorded in the Recorder of Deeds, in and for the County of Chester, aforesaid, in Record Book 6357 page 1680 &c., granted and conveyed unto Hedrick D. Cheung and Rita A. Cheung, in fee. Hedrick D. Cheung (deceased) as of March 27, 2014

BEING Parcel #16-6-266