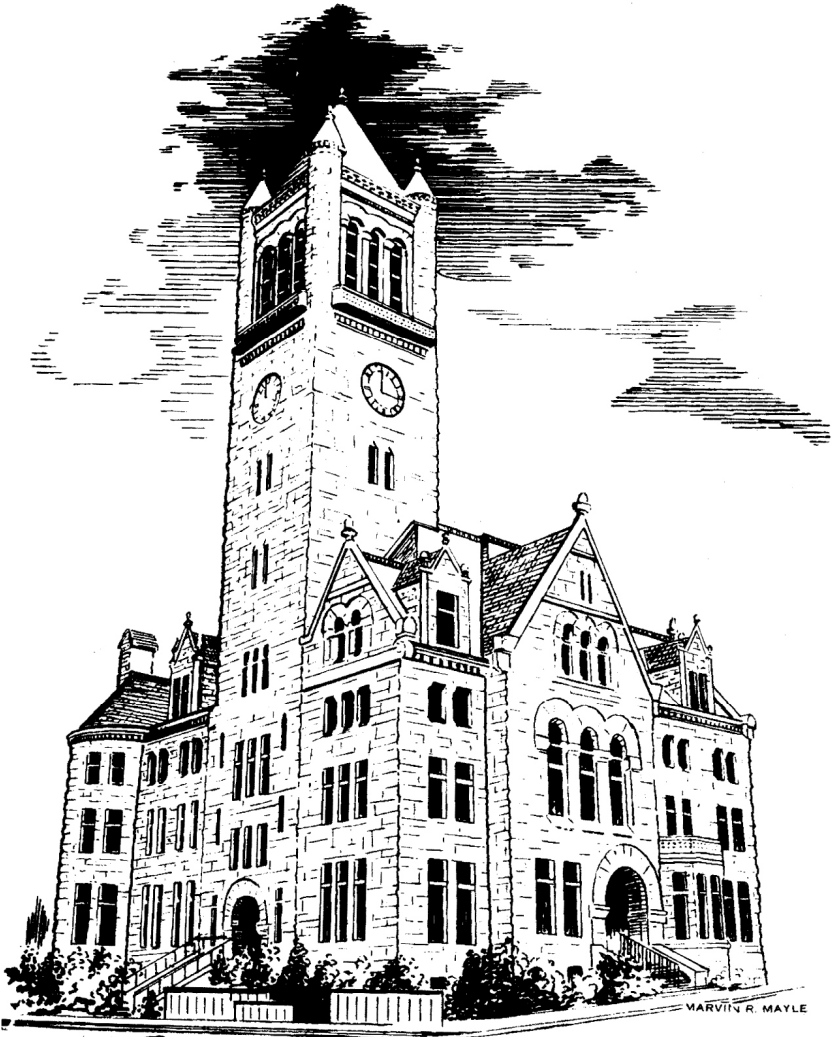


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ESTATE NOTICES

Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

HELEN F. KNUPSKY, late of Redstone Township, Fayette County, PA ⁽³⁾
Administrator: Charles J. Knupsky, Jr.
 c/o Webster & Webster
 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

MARK A. LAURITA, late of New Salem, Fayette County, PA ⁽³⁾
Administrator: Rosemarie Laurita
 c/o Charles C. Gentile, Esquire
 42944 National Pike Road
 P.O. Box 245
 Chalk Hill, PA 15421
Attorney: Charles C. Gentile

MATILDA A. STANEC, late of North Union Township, Fayette County, PA ⁽³⁾
Personal Representative:
 Rudolph G. Stanec, Jr.
 c/o George & George, LLP
 92 East Main Street
 Uniontown, PA 15401
Attorney: Joseph M. George

Second Publication

CHARLOTTE M. BAER, late of Smock, Fayette County, PA ⁽²⁾
Personal Representative:
 Michelle Rossi Barch
 c/o 84 East Main Street
 Uniontown, PA 15401
Attorney: Vincent M. Tiberi

JOHN G. BROWN, a/k/a JOHN GILBERT BROWN, late of Jefferson Township, Fayette County, PA ⁽²⁾
Executor: Carole E. Brown
 c/o P.O. Box 760
 Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

JENNIE T. CONGELIO, a/k/a JENNIE T. DiCONCILIO, a/k/a JENNIE T. DiCONCILIS, late of Luzerne Township, Fayette County, PA ⁽²⁾
Executor: Louis J. Congelio
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

ANNA MAE GALLO, late of Jefferson Township, Fayette County, PA ⁽²⁾
Executrix: Jean Ann Gallo
 103 Reed Avenue
 Belle Vernon, PA 15012
 c/o 1202 West Main Street
 Monongahela, PA 15063
Attorney: James W. Haines, Jr.

GLORIA P. GASBARRO, late of Connellsville, Fayette County, PA ⁽²⁾
Personal Representative:
 Marian G. Cadwallader
 c/o Watson Mundorff & Sepic, LLP
 720 Vanderbilt Road
 Connellsville, PA 15425
Attorney: Charles W. Watson

ANN L. MAST, a/k/a ANN MAST, late of Fayette City, Fayette County, PA (2)

Administratrix: Janice Lynn Murphy
4726 Echo Glen Drive
Pittsburgh, PA 15236
c/o 1202 West Main Street
Monongahela, PA 15063
Attorney: James W. Haines, Jr.

RONALD WYDICK, a/k/a RONALD JAMES WYDICK, late of Point Marion, Fayette County, PA (1)

Administrator: David Lee Wydick
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401
Attorney: John A. Kopas, III

PEARL S. WARMAN, a/k/a PAT S. WARMAN, late of Uniontown, Fayette County, PA (2)

Executor: Robert L. Webster, Jr.
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

First Publication

RODNEY LYNN EBERHART, late of Nicholson Township, Fayette County, PA (1)

Administrator: Darek W. Eberhart
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Jeffrey S. Proden

DONNA V. HOLIDAY, late of Uniontown, Fayette County, PA (1)

Personal Representative:
Timothy D. Chesler
c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Radcliffe

FLORENCE A. MOOD, late of Jefferson Township, Fayette County, PA (1)

Executor: Jack Mood
145 Mood Lane
Fayette City, PA 15438
c/o 300 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Richard C. Mudrick

LEGAL NOTICES

NOTICE

Notice is hereby given that Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on January 16, 2019, for a limited liability company known as Kate James, LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: real estate, sales and any other lawful purpose related thereto for which limited liability company may be organized under the Business Corporation Law.

DAVIS & DAVIS

BY: Gary J. Frankhouser, Esquire
107 East Main Street
Uniontown, PA 15401

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about December 2, 2018, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Boyle Home Solutions with the principal place of business at: 117 Chestnut Street, Everson, PA 15631.

The name or names and addresses of persons owning and interested are: Patrick Boyle and Edward Boyle.

SHERIFF'S SALE

Date of Sale: March 14, 2019

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, March 14, 2019, at 2:00 p.m. in Courtroom Number One at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer
 Sheriff Of Fayette County

No. 1691 of 2018 GD
 No. 382 of 2018 ED

**PENNSYLVANIA STATE EMPLOYEES
 CREDIT UNION,**
Plaintiff,
v.
**NORMAN J. CIACCIA and CATHY A.
 CIACCIA,**
Defendants.

ALL THE RIGHT, TITLE, INTEREST

AND CLAIM OF NORMAN J. CIACCIA AND CATHY A. CIACCIA OF, IN AND TO:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE TOWNSHIP OF WHARTON , COUNTY OF FAYETTE, COMMONWEALTH OF PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING KNOWN AND NUMBERED AS 3665 NATIONAL PIKE, FARMINGTON, PA 15437. DEED BOOK VOLUME 87, PAGE 161, PARCEL NUMBER 4216008201.

No. 2173 of 2018 GD
 No. 394 of 2018 ED

**FIRST NATIONAL BANK OF
 PENNSYLVANIA,**
Plaintiff,
vs.
SCOTT A. FERGUSON,
Defendant.

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF SCOTT A. FERGUSON OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 172 DIXON BOULEVARD, UNIONTOWN, PA 15401. DEED BOOK VOLUME 3075, PAGE 2159, AND PARCEL NUMBER 34-13-0056.

PARKER McCAY P.A.
 By: Patrick J Wesner, Esquire
 Attorney ID# 203145
 9000 Midlantic Drive, Suite 300
 P.O. Box 5054
 Mount Laurel, NJ 08054-1539
 (856) 810-5815

No. 2392 of 2016 GD
 No. 393 of 2018 ED

The Bank of New York Mellon FKA The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-8,

Plaintiff,
v.

Teresa D. Jenkins aka Teresa D. Barnhart, Individually and Teresa D. Jenkins aka Teresa D. Barnhart, Known Heir to the Estate or Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors;

Arnold Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors;

Michelle Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors;

The Unknown Heir s of the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors, Defendants.

By virtue of a Writ of Execution, No. 2392 of 2016 The Bank of New York Mellon, et al vs. Teresa D. Jenkins aka Teresa D. Barnhart, Individually and Teresa D. Jenkins aka Teresa D. Barnhart, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors; Arnold Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors; Michelle Jenkins, Known Heir to the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagors and The Unknown Heirs of the Estate of Arnold E. Jenkins and Verna M. Jenkins Deceased Real Owners and Mortgagor, owner of property situate in the NORTH UNION TOWNSHIP, Fayette County, Pennsylvania
116 Whvel Avenue, Uniontown, PA 15401
Parcel No. 25-22-161
Improvements thereon: RESIDENTIAL SINGLE FAMILY

New Penn Financial LLC d/b/a Shellpoint Mortgage Servicing, Plaintiff,
v.

Chelsea C. Johnson, Defendant.

ALL THAT CERTAIN LOT OR PARCEL OF LAND BEING KNOWN AND DESIGNATED AS LOT NO. 6 OF THE PLAN OF LOTS OF QUARZO AND MCDANIEL FOR SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA, KNOWN AS BLACKSTONE ACRES REVISED PLAN NO. 1 AND OF RECORD IN THE OFFICE FOR RECORDING DEEDS. FAYETTE COUNTY, PENNSYLVANIA, IN PLAN BOOK VOLUME 11, PAGE 168, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT CORNER TO LOT NO. 5 IN THE AFORESAID PLAN AND ALONG THE RIGHT OF WAY OF A CERTAIN TOWNSHIP ROAD DESIGNATED AS LR. 26040, WHICH LEADS FROM DERRICK AVENUE TO THE VILLAGE OF HOPWOOD; THENCE FROM SAID POINT OF BEGINNING, NORTH 84 DEGREES 01 MINUTES 30 SECONDS EAST. 30.34 FEET TO AN IRON PIN; THENCE STILL ALONG SAID RIGHT OF WAY, NORTH 85 DEGREES 40 MINUTES 30 SECONDS EAST, 55.36 FEET TO AN IRON PIN CORNER TO A LANE; THENCE ALONG SAID LANE, SOUTH 8 DEGREES 23 MINUTES WEST, 158.35 FEET TO A CONCRETE MONUMENT AND CORNER TO LOT NO. 7 IN SAID PLAN; THENCE ALONG LOT NO. 7, SOUTH 86 DEGREES 25 MINUTES WEST, 62.50 FEET TO A POINT AND CORNER TO LOT NO. 5 IN SAID PLAN; THENCE NORTH 3 DEGREES 25 MINUTES WEST, 45 FEET; THENCE NORTH 89 DEGREES 25 MINUTES EAST, 10.25 FEET; THENCE STILL ALONG LOT NO. 5. NORTH 3 DEGREES 25 MINUTES WEST, 110.67 FEET TO THE IRON PIN, PLACE OF BEGINNING.

Being known as: 483 Redstone Furnace Road, Uniontown, Pennsylvania 15401

Title vesting in Chelsea C. Johnson by deed from NICK CIACCIA AND LAUREN WHITLATCH, N/K/A LAUREN CIACCIA dated March 10, 2014 and recorded March 11, 2014 in Deed Book 3243, Page 2450

Tax Parcel Number: 34-21-0069

McCABE, WEISBERG & CONWAY, LLC
123 South Broad Street, Suite 1400
Philadelphia, PA 19109
(215) 790-1010

No. 1774 of 2018 GD
No. 383 of 2018 ED

KML Law Group, P.C.
 Suite 5000 - BNY Independence Center
 701 Market Street
 Philadelphia PA 19106
 215-627-1322

No. 1816 of 2018 GD
 No. 369 of 2018 ED

**BAYVIEW LOAN SERVICE INC. LLC. A
 DELAWARE LIMITED LIABILITY
 COMPANY**

**4425 Ponce de Leon Blvd
 Coral Gables, FL 33146,
 Plaintiff,**

vs.

**LOUIS A. KRUKOWSKY
 Mortgage(s) and Record Owner(s)
 149 Navaho Hollow Road
 Fayette City, PA 15438
 Defendant(s).**

ALL THAT CERTAIN parcel of land lying
 and situate in Washington Township, Fayette
 County, Pennsylvania

TAX PARCEL # 41-17-0003

PROPERTY ADDRESS: 149 Navaho
 Hollow Road Fayette City, PA 15438

IMPROVEMENTS: A residential
 dwelling.

SOLD AS THE PROPERTY OF: LOUIS
 A. KRUKOWSKY

KML Law Group, P.C.
 Suite 5000 - BNY Independence Center
 701 Market Street
 Philadelphia PA 19106
 215-627-1322

No. 1873 of 2018 GD
 No. 371 of 2018 ED

**NATIONSTAR MORTGAGE LLC D/B/A
 MR. COOPER**

**8950 Cypress Waters Boulevard
 Coppell, TX 75019,
 Plaintiff,**

vs.

**CHARLOTTE A. LEWIS
 Mortgage(s) and Record Owner(s)
 7 Suncrest Lane**

**Uniontown, PA 15401,
 Defendant(s).**

ALL THAT CERTAIN PIECE OR
 PARCEL OF LAND SITUATE IN SOUTH
 UNION TOWNSHIP, FAYETTE COUNTY,
 PENNSYLVANIA

TAX PARCEL # 34-28-0023

PROPERTY ADDRESS: 7 Suncrest Lane
 Uniontown, PA 15401

IMPROVEMENTS: A residential dwelling
 SOLD AS THE PROPERTY OF:
 CHARLOTTE A. LEWIS

Phelan Hallinan Diamond & Jones, LLP

No. 1931 of 2013 GD
 No. 374 of 2018 ED

**PNC Bank, National Association Successor by
 Merger to National City Bank, Successor by
 Merger to National City Bank of Pennsylvania,
 Plaintiff,**

v.

**Lesa L. Major,
 Defendant(s).**

By virtue of a Writ of Execution No. 1931-
 OF-2013-GD, PNC Bank, National Association
 Successor by Merger to National City Bank,
 Successor by Merger to National City Bank of
 Pennsylvania v. Lesa L. Major, owner(s) of
 property situate in the FAYETTE CITY
 BOROUGH, Fayette County, Pennsylvania,
 being 211 Market Street, Fayette City, PA 15438
 -1092

Parcel No.: 12030267

Improvements thereon: RESIDENTIAL
 DWELLING

Phelan Hallinan Diamond & Jones, LLP

No. 1972 of 2018 GD
 No. 362 of 2018 ED

**Wells Fargo Bank, NA,
 Plaintiff,**

v.

**Robert T. Nelan,
 Defendant(s)**

By virtue of a Writ of Execution No. 1972

OF 2018, Wells Fargo Bank, NA v. Robert T. Nelan, owner(s) of property situate in the SOUTH UNION TOWNSHIP, Fayette County, Pennsylvania, being 270 Krizner Road, Brownfield, PA 15416

Parcel No.: 34-27-0290

Improvements thereon: RESIDENTIAL DWELLING

No. 2197 of 2018 GD

No. 390 of 2018 ED

**JPMorgan Chase Bank, National Association,
PLAINTIFF,
vs.
Allen G. Patton,
DEFENDANT.**

All those certain parcels of land situate in Wharton Township, Fayette County, Commonwealth of Pennsylvania, being known as Lot Nos. 360 and 361 in the Deer Lake Plan of Lots No. 2, as the said plan of lots is recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 9, Page 116.

COMMONLY KNOWN AS: 360 Meadow Run Road, Ohiopyle, PA 15470

TAX PARCEL NO. 42-10-0085

No. 864 of 2018 GD

No. 392 of 2018 ED

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF
Vs.**

**PAM PLESZ, HAROLD LARRY PRITTS,
JR. AND MELANIE SMITH, IN THEIR
CAPACITY AS KNOWN HEIRS OF
HAROLD L. PRITTS, DECEASED; AND
THE UNKNOWN HEIRS OF HAROLD L.
PRITTS, DECEASED,
DEFENDANTS**

ALL that tract of land in Upper Tyrone Township, Fayette County, Pennsylvania, being approximately 69.20 x 106.46 x 133.00 x 176.81 x 49.94 x 72.11. CONTAINING 0.5182 acres, survey by Thomas W. Lyons, Jr., November 1995, and being Parcel No. 2 therein. HAVING THEREON ERECTED DWELLING KNOWN

AND NUMBERED AS: 542 DRY HILL ROAD CONNELLSVILLE, PA 15425.

Tax Parcel# 39-14-007201

Fayette Deed Book 2791, page 2180

TO BE SOLD AS THE PROPERTY OF PAM PLESZ, HAROLD LARRY PRITTS, JR. AND MELANIE SMITH, IN THEIR CAPACITY AS KNOWN HEIRS OF HAROLD L. PRITTS, DECEASED; AND THE UNKNOWN HEIRS OF HAROLD L. PRITTS, DECEASED UNDER JUDGMENT NO. 2018--00864

Phelan Hallinan Diamond & Jones, LLP

No. 241 of 2017 GD

No. 400 of 2018 ED

**Deutsche Bank Trust Company Americas, as Trustee, f/k/a Bankers Trust Company, as Trustee of Ameresco Residential Securities Corporation Mortgage Loan Trust 1998-1, Under Pooling and Servicing Agreement Dated as February 1, 1998,
Plaintiff,
v.
Steven Sandoval
Julie Sandoval n/k/a Julie Brown,
Defendant(s).**

By virtue of a Writ of Execution No. 241-0F-2017-GD

Deutsche Bank Trust Company Americas, as Trustee, f/k/a Bankers Trust Company, as Trustee of Ameresco Residential Securities Corporation Mortgage Loan Trust 1998- 1, Under Pooling and Servicing Agreement Dated as February 1, 1998 v. Steven Sandoval Julie Sandoval n/k/a Julie Brown, owner(s) of property situate in the EVERSON BOROUGH, Fayette County, Pennsylvania, being 200 Jones Street, Everson, PA 15631-1144

Parcel No.: 10-03-0211-01

Improvements thereon: RESIDENTIAL DWELLING

*** END SHERIFF'S SALE ***

Registers' Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans' Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans' Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans' Court Division of Fayette County on

Monday, February 4, 2019, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0207	KRISTA LEE DeFRANKS also known as KRISTA L. DeFRANKS	James A. DeFranks, Administrator

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Tuesday, February 19, 2019, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable JOSEPH M. GEORGE, JR.** or his chambers, 3rd Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

JEFFREY L. REDMAN
Register of Wills and Ex-Officio Clerk of the Orphans' Court Division (2 of 2)

JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION

JOAN LEINER, Executrix for the	:	
Estate of William J. Leiner, deceased,	:	
Plaintiff,	:	
vs.	:	
GOLDEN GATE NATIONAL SENIOR ARE, LLC;	:	
GGNSC UNIONTOWN, LP d/b/a GOLDEN LIVING	:	
CENTER – UNIONTOWN; GGNSC HOLDINGS, LLC;	:	
GGNSC EQUITY HOLDINGS, LLC; GGNSC	:	
UNIONTOWN GP, LLC; GPH UNIONTOWN, LP;	:	
GGNSC ADMINISTRATIVE SERVICES, LLC;	:	
GGNSC CLINICAL SERVICES, LLC; GOLDEN	:	
GATE ANCILLARY, LLC; and JOYCE HOCH, NHA,	:	
Defendants.	:	No. 1624 of 2016, G.D.

OPINION AND ORDER

VERNON, J.

January 8, 2019

Before the Court are Preliminary Objections filed by Defendants, Golden Gate National Senior Care, LLC; GGNSC Uniontown, LP d/b/a Golden Living Center – Uniontown; GGNSC Holdings, LLC; GGNSC Equity Holdings, LLC; GGNSC Uniontown GP, LLC; GPH Uniontown, LP; GGNSC Administrative Services, LLC; GGNSC Clinical Services, LLC; Golden Gate Ancillary, LLC; and Joyce Hoch, NHA, to the Complaint filed by Plaintiff, Joan Leiner, Executrix for the Estate of William J. Leiner, deceased.

Defendants lodge the following objections:

(1) Whether this Court lacks subject matter jurisdiction due to a valid alternative dispute resolution agreement between the parties.

(2) Whether Plaintiff’s claim for punitive damages is factually and legally insufficient and must be stricken.

(3) Whether Plaintiff’s allegations of per se liability for alleged violation of the Neglect of a Care-Dependent Person Statute, 18 Pa.C.S. §2713, and the Pennsylvania Older Adults Protective Services Act, 35 P.S. §10225.101, must be stricken for factual and legal insufficiency.

(4) Whether Defendants’ Preliminary Objection to strike boilerplate allegations of corporate negligence and corporate conduct as impertinent and scandalous matter pursuant to Pa.R.C.P. 1028(a)(2) and as insufficient pursuant to Pa.R.C.P. 1028(a)(3) and (a)

(4) should be granted.

(5) Whether Defendants' Preliminary Objection to strike unrelated and general survey deficiencies as impertinent and scandalous matter pursuant to Pa.R.C.P. 1028(a)(2) and as insufficient pursuant to Pa.R.C.P. 1028(a)(3) and (a)(4) should be granted.

DISCUSSION

In ruling on preliminary objections, the Court must accept as true all well-pleaded, material and relevant facts. *Mellon Bank v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. 1994). “[C]onclusions of law, unwarranted inferences from the facts, argumentative allegations or expressions of opinion” need not be accepted as true. *Myers v. Ridge*, 712 A.2d 791, 794 (Pa. Commw. 1998).

Defendants first move this Court to direct all claims governed by the ADR Agreement dismissed pursuant to the ADR Agreement executed by Decedent and further request that the Complaint be dismissed, and Plaintiff's claims be resolved pursuant to the terms of the ADR Agreement. Finding a recent, unpublished memorandum of the Superior Court persuasive, we will adopt the sound reasoning of the appellate court in holding that the “ADR agreement executed by the parties is valid and enforceable.” *Accord, Ernest Ewing Christopher, Executor for the Estate of Mildred F. Snyder v. Golden Gate National Senior Care, LLC, et al.*, No. 864 WDA 2017, 2019 WL 101048 (Pa. Super. Ct. Jan. 4, 2019).

As the Superior Court more fully elaborated in examining an identical ADR provision, “the ADR clause here is neither procedurally nor substantively unconscionable”, “any alleged lack of benefit to [the Resident] to proceed with the survival claim under the ADR agreement does not void the agreement”, and “the agreement in this case properly identified the parties to be bound by the agreement.”

As such, the Court will sustain this preliminary objection and the parties shall proceed in accordance with the ADR agreement as applicable under Pennsylvania law. The instant survival claims are subject to the ADR provision while the wrongful death claims may proceed before this Court. *Id.* citing *Pisano v. Extencicare Homes, Inc.*, 77 A.3d 651, 661 (Pa. Super. 2013).

As to the second objection, Defendants allege the punitive damages claim is factually and legally insufficient. Punitive damages are defined as “damages, other than compensatory or nominal damages, awarded against a person to punish him for his outrageous conduct and to deter him and others like him from similar conduct in the future.” *Restatement (Second) of Torts*, §908(1). Punitive damages are not awarded for mere inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence and are not permitted merely for a breach of contract. *Id.* at comment (b). Punitive damages must be based on malicious, wanton, reckless, willful, or oppressive conduct on the part of the defendant. *Hughes v. Babcock*, 37 A.2d 551, 554 (Pa. 1944).

Punitive damages are only available for actions done with an evil motive or reckless indifference to the interests of others. *Chambers v. Montgomery*, 192 A.2d 355, 358 (1963).

The Medical Care Availability and Reduction of Error Act, enacted March 20, 2002, recognizes that punitive damages may be imposed against “health care providers” for willful or wanton conduct or reckless indifference to the rights of other. 40 P.S. §1303.505; See *Capriotti v. Beverly Enterprises of Pennsylvania, Inc.*, 2004 Pa. Dist. & Cnty. Dec. LEXIS 306, 72 Pa. D. & C. 4th 564 (2004). Further, the Act specifically includes a “nursing home” within the definition of health care provider. 40 P.S. §1303.503. To impose punitive damages against a health care provider arising out of the actions of its agents for whom it is vicariously liable, a plaintiff must offer facts to show that the defendant knew of and allowed the conduct of its agents. 40 P.S. §1303.505(c).

Here, Plaintiff averred that Defendants placed profit above patient care by under-treating and under-staffing its facility, and by neglecting its residents. See Record, Complaint, paragraphs 26-57. With regard to this objection, “[t]his court cannot say, as a matter of law, that [Defendant] did not act with a level of reckless disregard such that a jury would regard an award of punitive damages appropriate.” *Capriotti*, 72 Pa. D. & C. 4th at 576.

Viewing these allegations as admitted, Plaintiff has alleged sufficient facts to demonstrate the willful or wanton conduct or reckless indifference of Defendants. Accordingly, taking the allegations as having been admitted, it is obvious that Plaintiff’s Complaint sets forth sufficient facts for the imposition of punitive damages. Further, the Complaint does not indicate on its face that the claim cannot be sustained. Thus, the second preliminary objection of Defendants must be overruled.

Defendants’ third preliminary objection requires this Court to examine whether Plaintiff’s allegations of per se liability for an alleged violation of the Neglect of a Care-Dependent Person Statute, 18 Pa.C.S. §2713, and the Pennsylvania Older Adults Protective Services Act, 35 P.S. §10225.101, must be stricken for factual and legal insufficiency.

To establish a claim based on negligence per se, Plaintiff must establish (1) that the purpose of the statute is, at least in part, to protect the interest of a group of individuals, as opposed to the public generally; (2) that the statute clearly applies to the conduct of the defendant; (3) that the defendant violated the statute; and (4) that the violation was a proximate cause of the plaintiff’s injuries. *Wagner v. Anzon Inc.*, 684 A.2d 570, 574 (Pa.Super. 1996).

Neglect of a Care-Dependent Person Statute, 18 Pa.C.S. §2713, provides:

A caretaker is guilty of neglect of a care-dependent person if he:

(1) Intentionally, knowingly or recklessly causes bodily injury or serious bodily

injury by failing to provide treatment, care, goods, or services necessary to preserve the health, safety or welfare of a care-dependent person for whom he is responsible.

The Older Adults Protective Services Act (OAPSA) sets forth civil and administrative penalties for abuse of a care-dependent person.

Here, Plaintiff's allegations, if proven, that Defendants violated these statutes in failing to provide basic care caused the Plaintiff's decedent's suffering and ultimate death, the law supports Plaintiff's claims for per se liability arising from Defendant's alleged violation of Neglect of a Care-Dependent Person Statute and The Older Adults Protective Services Act. As such, this preliminary objection must be overruled.

At the fourth and fifth preliminary objections, Defendants move to strike impertinent and scandalous matter pursuant to Pa.R.C.P. 1028(a)(2), and for insufficiency in a pleading pursuant to Pa.R.C.P. 1028(a)(3) and (a)(4). At the fourth objection, Defendants request this Court to strike allegations of corporate negligence and corporate conduct in that Defendants acted consciously to maximize profits of the facility at the expense of the facility residents by reducing staffing levels and accepting higher acuity residents in order to increase governmental and third party reimbursement. At the fifth objection, Defendants request this Court to strike unrelated and general survey deficiencies in that the Pennsylvania Department of Health Survey deficiencies were not related to Decedent's care at the Golden Living-Uniontown facility.

Pennsylvania Rule of Civil Procedure 1019(a) requires that "(t)he material facts on which a cause of action or defense is based shall be stated in a concise and summary form." The standard of pleading set forth in Rule 1019(a) is incapable of precise measurement. *United Refrigerator Co. v. Applebaum*, 189 A.2d 253, 255 (Pa. 1963). Pleadings in a "fact pleading" jurisdiction, such as Pennsylvania, serve several functions; not only must pleadings put an opponent on notice of what he will be called upon to meet at trial, they must also frame the issues in an action so that the proof at trial may be restricted to those issues. See, *Connor v. Allegheny General Hospital*, 461 A.2d 600 (Pa. 1983).

Nevertheless, "(a)s a minimum, a pleader must set forth concisely the facts upon which his cause of action is based." *Line Lexington Lumber & Millwork Co., Inc. v. Pennsylvania Publishing Corp.*, 301 A.2d 684, 688 (Pa. 1973). And, "in the context of a negligence action, it is fundamental that the plaintiffs establish the duty owed by (the defendants), the breach of which might give rise to injuries alleged to be suffered by the plaintiffs." *Otto v. American Mutual Insurance Co.*, 361 A.2d 815, 818-19 (Pa. 1976).

The purpose of Rule 1019(a) is to require the pleader to disclose the "material facts sufficient to enable the adverse party to prepare his case." *Baker v. Rangos*, 324 A.2d 498, 505 (Pa. Super. 1974), citing *Landau v. Western Pennsylvania National Bank*, 282 A.2d 335, 339 (Pa. 1971). The term "material facts" has been defined as "those facts

essential to support the claim” raised in the matter. *Baker v. Rangos*, supra. A pleading, therefore, must do more than simply give the adverse party fair notice of what his claim or defense is and the grounds upon which it rests; it should, instead, formulate the issue by fully summarizing the material facts. *Id.*

Upon our finding that Plaintiff’s Complaint does not indicate on its face that the claim for punitive damages cannot be sustained, supra., these allegations set forth in the Complaint may be relevant to the claim for punitive damages and will not be stricken as impertinent and scandalous matter.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 8th day of January, 2018, upon consideration of the Preliminary Objections filed by Defendants, the response of Plaintiff, the briefs of each party, and the Record, it is hereby ORDERED and DECREED that:

- (1) the preliminary objection regarding subject matter jurisdiction is SUSTAINED and accordingly, the survival claims are subject to the ADR provision and the wrongful death claims may proceed before this Court;
- (2) the remaining preliminary objections are OVERRULED consistent with the foregoing Opinion.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
Nina Capuzzi Frankhouser
Prothonotary

ESSENTIALS OF ESTATE ADMINISTRATION

The Essentials of Estate Administration Practice in Fayette County

The Fayette County Bar Association will present the Essentials of Estate Administration Practice in Fayette County:

- Date: **Wednesday, February 20th from 9:00 a.m. to 12:00 p.m.**
Location: Commissioners Meeting Room
Public Service Building
22 East Main Street
Uniontown, Pennsylvania
Panelists: Charles W. Watson, Esquire,
Honorable Judge Steve P. Leskinen,
Honorable Judge Joseph M. George, Jr.,
Jeffrey Redman, Register of Wills

Topics will include: Probate vs. Non-probate Assets, Notices, Deadlines/Critical Dates, Payment Priorities, Fiduciary Responsibilities, Control of Funds, Fees/Costs, Estate, Inheritance and Income Taxes, Closing an Estate and Post-death Planning Opportunities, etc.

All attendees will receive digital copies of some relevant forms including personal representative interview sheet, sample will, and accounting, etc.

CLE Credit - 3.0 hour of Substantive CLE credits.

The **costs** to attend are as follows:

- No charge – Attorneys admitted to practice in Pennsylvania after January 1, 2012
- \$30 – Members of the FCBA admitted to practice in Pennsylvania before January 1, 2012
- \$20 – Paralegals/legal assistants of FCBA members
- \$50 – Non-members admitted to practice in Pennsylvania before January 1, 2012

Registration from 8:30 to 9:00. A light breakfast will be provided.

If interested in attending, please call Cindy at the Bar office at 724.437.7994 or by email to cindy@fcbar.org on or before Monday, February 18th.

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