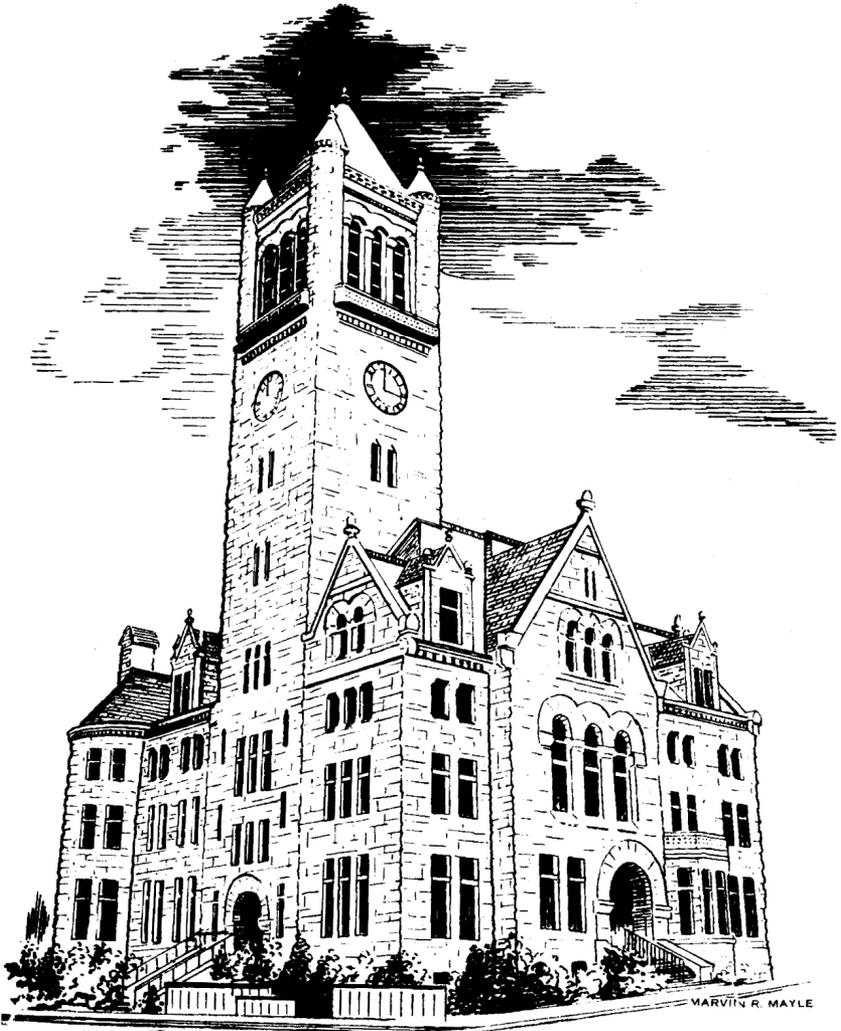


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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding, the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

NANCY DONLEY, late of Hopwood, Fayette County, PA ⁽³⁾

Executor: Starlet Nestor
5 Route 21 Estates
Carmichaels, PA 15320
c/o Fieschko & Associates, Inc.
Suite 2230 436 7th. Avenue
Pittsburgh, PA 15219
Attorney: Joseph Fieschko

EDGAR J. ROSENBERRY, late of Springfield Township, Fayette County, PA ⁽³⁾

Personal Representative:
Joseph E. Rosenberry
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Robert A. Gordon

**MARGARET SALANSKY, a/k/a
MARGARET H. SALANSKY**, late of North Union Township, Fayette County, PA ⁽³⁾

Executrix: Carol Zackal
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

**TIMOTHY J. SEDLAK, SR., a/k/a
TIMOTHY JAMES SEDLAK, SR.**, late of Belle Vernon, Fayette County, PA ⁽³⁾

Executrix: Kimberly Ann Sedlak Hart
189 Naugle Drive
Falls Creek, PA 15840
c/o Fiffik Law Group, PC
661 Andersen Drive
Foster Plaza 7, Suite 315
Pittsburgh, PA 15220
Attorney: Matthew A. Bole

IRIS L. STEYER, late of Springfield Township, Fayette County, PA ⁽³⁾

Co-Executors: Ray Steyer and
Frances Collins
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

NANCY WAYNE, late of Markleysburg, Fayette County, PA ⁽³⁾

Administratrix: Leah Stemple
c/o 2944 National Pike Road
P.O. Box 245
Chalk Hill, PA 15421
Attorney: Charles C. Gentile

Second Publication

**EDWARD BUBASH, a/k/a EDWARD J.
BUBASH**, late of Masontown Borough, Fayette County, PA ⁽²⁾

Executrix: Marcia B. Santini
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

HARRY EUGENE JENKINS, late of Uniontown, Fayette County, PA ⁽²⁾

Administratrix: Angela L. Beck
1822 W. Cobblestone Lane
St. Augustine, FL 32092
c/o 18 W. Cherry Avenue
Washington, PA 15301
Attorney: P. Chad Schneider

RICHARD B. KIETA, late of Franklin Township, Fayette County, PA ⁽²⁾

Personal Representative:
Tammie L. Nelson
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

**RODNEY CRAIG KING, SR., a/k/a
RODNEY C. KING**, late of Springfield Township, Fayette County, PA ⁽²⁾

Administratrix: Vickie L. King
3350 Springfield Pike
Normalville, PA 15469

c/o King Legal Group, LLC
114 North Maple Avenue
Greensburg, PA 15601
Attorney: Robert W. King

JAMES L. KRAMER, late of Washington Township, Fayette County, PA (2)
Administratrix: Tracy Molnar
116 Elwell Street
Fayette City, PA 15438
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

ROBERT LENT, a/k/a ROBERT L. LENT, late of Luzerne Township, Fayette County, PA (2)
Executor: Gregory Ritsko, Jr.
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Benjamin Goodwin

DIANE E. LINT, late of Dunbar Township, Fayette County, PA (2)
Personal Representative: Brain E. Soltis
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LARRY PAVTIS, late of Washington Township, Fayette County, PA (2)
Administratrix: Samantha Pavtis
1550 21st. Street East, Apt. 51
Bradenton, FL 34208
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

**CATHERINE POPOVICH, a/k/a
CATHERINE M. POPOVICH, a/k/a
KATHRYN M. POPOVICH**, late of Masontown, Fayette County, PA (2)
Executrix: Sonya M. Cofone, formerly Sonya Popovich
111 River Avenue
Masontown, PA 15461
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

SHIRLEY MAE RUEBSTECK, late of Smithfield, Fayette County, PA (2)
Administrator: Joseph Nastasi
c/o 2944 National Pike Road
P.O. Box 245
Chalk Hill, PA 15421
Attorney: Charles C. Gentile

DEBORAH ANN STEELE, late of South Union Township, Fayette County, PA (2)
Personal Representative: Mark C. Steele
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

TIMOTHY SZEPESI, late of Connellsville, Fayette County, PA (2)
Personal Representative:
Matthew K. Minerd
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

JOSEPH VALENTOVICH, a/k/a JOSEPH M. VALENTOVICH, late of North Union Township, Fayette County, PA (2)
Executor: Benjamin J. Pramuk
c/o Higinbotham Law Offices
45 East Main Street, Suite 500
Uniontown, PA 15401
Attorney: James Higinbotham

ROGER LEE WILES, a/k/a ROGER L. WILES, a/k/a ROGER WILES, late of Springhill Township, Fayette County, PA (2)
Administrator: Terry J. Wiles
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Simon B. John

First Publication

MARK ANKROM, a/k/a MARK J. ANKROM, late of Fayette City, Fayette County, PA ⁽¹⁾

Personal Representative: Monica Willson
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

M. KATHLEEN BRUNS, a/k/a MARY KATHLEEN BURNS, late of South Union Township, Fayette County, PA ⁽¹⁾

Executrix: Joni Richardson Basescu
c/o John & John
96 East Main Street
Uniontown, PA 15401
Attorney: Anne N. John

JENNIE P. FIRESTONE, late of Melcroft, Fayette County, PA ⁽¹⁾

Administrator: Gertrude Larosa
c/o Casini & Geibig, LLC
815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

KEVIN L. HENSEL, late of Connellsville, Fayette County, PA ⁽¹⁾

Executrix: Betty L. Horner
c/o 300 North Market Street
Ligonier, PA 15658
Attorney: Del Nolfi, III

AUSTIN MORGAN, a/k/a AUSTIN E. MORGAN, late of Uniontown, Fayette County, PA ⁽¹⁾

Executor: Michael J. Sanders, Sr.
186 Grange Road
McClellandtown, PA 15458
c/o P.O. Box 1007
Hopwood, PA 15445
Attorney: Nicholas Clark

CHARLES W. RISER, SR., late of South Connellsville, Fayette County, PA ⁽¹⁾

Executor: Charles W. Riser, Jr.
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Z. House

GEORGE G. SMITH a/k/a GEORGE GLENN SMITH, late of Lower Tyrone Township, Fayette County, PA. ⁽¹⁾

Executrix: Lisa Stimmel
P.O. Box 58
Dawson, PA 15428.
Attorney: Jennifer M. Merx
Skarlatos Zonarich LLC
320 Market St., Ste. 600W
Harrisburg, PA 17101

RUTH M. WILIUSZIS, a/k/a RUTH MARY WILIUSZIS, late of Perryopolis, Fayette County, PA ⁽¹⁾

Administratrix: Karen Barry
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Z. House

LEGAL NOTICES

NONE

SHERIFF'S SALE

Date of Sale: July 22, 2021

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, July 22, 2021, at 2:00 p.m. in Courtroom Number Five 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

Brock & Scott, PLLC

No. 2400 of 2019 GD
No. 62 of 2021 ED

**FREEDOM MORTGAGE CORPORATION
v.
RYAN LEE BUCHHEIT**

By virtue of a Writ of Execution No. 2400 of 2019 GD

FREEDOM MORTGAGE CORPORATION

v.
RYAN LEE BUCHHEIT
owner(s) of property situate in the CITY OF UNIONTOWN, FAYETTE County, Pennsylvania, being 100 BAILEY AVENUE, UNIONTOWN, PA 15401

Tax ID No. 38-04-0588

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$76,562.73

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

No. 831 of 2019 GD
No. 68 of 2021 ED

**LSF8 Master Participation Trust
Plaintiff
v.**

Cynthia L. Johnson, in her Capacity as Executrix and Devisee of the Estate of Sylvia Jane Sealy a/k/a Sylvia J. Sealy, Evelyn Potchynok, in her capacity as Heir of Sylvia Jane Sealy A/K/A Sylvia J. Sealy, and

ALL that certain lot or parcel of ground situate in the Sixth Ward, Brownsville, Fayette County, Pennsylvania, bounded and described as follows:

FRONTING 30 feet on the Northerly side of Front Street and extending back therefrom between property now or formerly of Saul Cazen on the Easterly side and property now or formerly of Jacob H. Sherrard on the Westerly, a distance of 90 feet, more or less, to property now or formerly of the Acklin Estate, upon which is erected a two story frame dwelling, having two apartments.

All that certain piece or parcel or Tract of land situate Brownsville Township, 6th Fayette County, Pennsylvania, and being known as 419 Front Street, Brownsville, Pennsylvania 15417.

Being known as: 419 Front Street, Brownsville, Pennsylvania 15417

Title vesting in Cynthia L. Johnson, in her Capacity as Executrix and Devisee of the Estate of Sylvia Jane Sealy a/k/a Sylvia J. Sealy, Evelyn Potchnok, in her capacity as Heir of Sylvia Jane Sealy A/KIA Sylvia J. Sealy, and Unknown Surviving Heirs of Sylvia Jane Sealy a/k/a Sylvia J. Sealy by deed from Richard Sealy and Sylvia Jane Sealy, husband and wife, dated October 31, 1983 and recorded November 9, 1983 in Deed Book 1329, Page 636.

Tax Parcel Number: 02-06-0258

No. 2112 of 2010 GD
No. 49 of 2021 ED

FAIRPORT ASSET MANAGEMENT LLC
Plaintiff,
vs.
CHRISTY A. KING,
Defendant.

ALL that tract of land situate Perry Township, Fayette County, Pennsylvania, known as 133 Cemetery Road, Vanderbilt, Pennsylvania 15486 having erected thereon a dwelling house.

PARCEL BEING KNOWN AND DESIGNATED AS TAX MAP 27-16-0085-010

BEING the same premises which CMF Industries, Inc., by their Deed Dated December 31, 1987 and recorded in the Recorder's Office of Fayette County on January 25, 1988 in Deed Book Volume 381, Page 114, granted and conveyed unto Christy A. King, the grantor herein.

Robertson, Anschutz, Schneid, Crane & Partners, PLLC
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
Phone: (855) 225-6906
Fax: (866) 381-9549

No. 1364 of 2020 GD
No. 64 of 2021 ED

WILMINGTON SAVINGS FUND SOCIETY
DBA CHRISTIANA TRUST, NOT
INDIVIDUALLY, BUT SOLELY AS
TRUSTEE FOR NYMT LOAN TRUST I
Plaintiff

v.
DAVID MIHALSKY, IN HIS CAPACITY
AS HEIR OF WALTER R. MIHALSKY;

CARMEL TASSONE, IN HIS CAPACITY
AS HEIR OF WALTER R. MIHALSKY;
EDWARD MIHALSKY, JR., IN HIS
CAPACITY AS HEIR OF WALTER R.
MIHALSKY; UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS AND ALL
PERSONS, FIRMS OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR INTEREST
FROM OR UNDER WALTER R.
MIHALSKY

Defendant(s)

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE TOWNSHIP OF GERMAN, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 233 WATER STREET FOOTEDALE, PA 15468

BEING PARCEL NUMBER: 15170010
IMPROVEMENTS: RESIDENTIAL PROPERTY

Brock & Scott, PLLC

No. 1213 of 2019 GD
No. 56 of 2021 ED

WELLS FARGO BANK, N.A.
v.

ERNEST RUGGIERI, IN HIS CAPACITY
AS HEIR OF MARY KAY RUGGIERI,
DECEASED; UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND ALL
PERSONS, FIRMS, OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR INTEREST
FROM OR UNDER MARY KAY
RUGGIERI, DECEASED

By virtue of a Writ of Execution No. 1213 of 2019 GD

WELLS FARGO BANK, N.A.

v.

ERNEST RUGGIERI, IN HIS CAPACITY AS HEIR OF MARY KAY RUGGIERI, DECEASED; UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER MARY KAY RUGGIERI, DECEASED

owner(s) of property situate in the CONNELLSVILLE, FAYETTE County, Pennsylvania, being 411 N PITTSBURGH STREET, CONNELLSVILLE, PA 15425

Tax ID No. 05-06-0176

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$50,071.84

STERN & EISENBERG PC
ANDREW J. MARLEY, ESQUIRE

No. 296 of 2020 GD
No. 60 of 2021 ED

**U.S. Bank National Association, as Trustee
for BNC Mortgage Loan Trust 2007-2
Mortgage Pass-Through Certificates, Series
2007-2**

Plaintiff

v.

**Marsha Shaffer
Defendants**

SITUATE IN THE TOWNSHIP OF
CONNELLSVILLE, COUNTY OF FAYETTE
AND COMMONWEALTH OF
PENNSYLVANIA, BEING KNOWN AS 825
North Jefferson Street, Connellsville, PA 15425.

PARCEL NO. 06-07-0003

IMPROVEMENTS- RESIDENTIAL
REAL ESTATE

SOLD AS THE PROPERTY OF-
MARSHA SHAFFER

Brock & Scott, PLLC

No. 156 of 2020 GD
No. 57 of 2021 ED

WELLS FARGO BANK, N.A.

v.

JASON SOMMERFELDT

By virtue of a Writ of Execution No. 156
of 2020 GD

WELLS FARGO BANK, N.A.

v.

JASON SOMMERFELDT

owner(s) of property situate in the
WASHINGTON, FAYETTE County,
Pennsylvania, being 1118 CEMETERY RD,
FAYETTE CITY, PA 15438

Tax ID No. 41-16-0026

Improvements thereon: RESIDENTIAL
DWELLING

Judgment Amount: \$51,732.55

*** END SHERIFF'S SALES ***

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, June 7, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2611-0718	RUTH SHULTZ	Charles R. Shultz, Executor

Accounts filed in the Office of the Clerk of the Orphans' Court Division
of the Court of Common Pleas of Fayette County Pennsylvania:

28 of 1979	EDWARD L. KLIPPI	PNC Bank National Association, Guardian of the Estate
------------	------------------	-------------------------------------------------------

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

Monday, June 21, 2021, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable Steve P. Leskinen** or his chambers, 2nd 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.

Notice is also 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, June 7, 2021, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2619-0827	ROSITA F. NEGA	Allison R. Barajas, Executrix

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

Monday, June 21, 2021, 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.

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE

E&O INSURED

WILL TRAVEL

ACCEPTING NEW CLIENTS

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, June 16th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **ODC Practice and Procedure and Rule 8.4(g)**
- Presenters: Thomas A. Farrell, Chief Disciplinary Counsel, Disciplinary Board of the Supreme Court of Pennsylvania, and Anne N. John, Esquire

CLE Credit

1.5 hours of Ethics CLE credit for the program. The fees are as follows:

Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2016

- No charge for attendance with CLE Credit

Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****

A light lunch will be provided.

****While same day registrants are welcome, lunch will be served first to those who register in advance of the program day due to the difficulty in estimating the number of walk-ins.****

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to cindy@fcb.org on or before Monday, June 14th.

JUDICIAL OPINION

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

ANTHONY J. MOLINARO,	:	
PLAINTIFF,	:	
v.	:	
NEMACOLIN WOODLANDS, INC.	:	
t/d/b/a/ NEMACOLIN WOODLANDS	:	
RESORT,	:	
DEFENDANT,	:	
v.	:	
GREG VERNOSKY and GREG	:	
VERNOSKY CARPET d/b/a GREG	:	No. 1661 of 2016 G.D.
VERNOSKY CARPETS, INC.,	:	
DEFENDANT.	:	Honorable President Judge John F. Wagner, Jr.

OPINION AND ORDER

Wagner, P.J.

May 4, 2021

The instant action is predicated upon an alleged incident that occurred on December 17, 2017. Specifically, Plaintiff alleges that he was staying in room 1518 at Nemacolin Woodlands Resort. While in his room, the Plaintiff got out of a chair and asserts that the carpet on the floor was raised and insecure, causing him to fall and sustain injuries. Plaintiff filed the instant suit seeking damages from Nemacolin Woodlands Inc., t/d/b/a Nemacolin Woodlands Resort (hereinafter "Resort") and Greg Vernosky and Greg Vernosky Carpet, d/b/a Greg Vernosky Carpets, Inc. (hereinafter "Vernosky Carpets").

BACKGROUND

On December 17, 2014, the Plaintiff checked into room 1518 at the Nemacolin Resort. He walked around the resort, drank alcohol and returned to his hotel suite and continued to consume alcohol. He got up from a chair in his room and initially reported that he "twisted" and fell to the floor, unable to stand or move from his waist to his feet. When his friend arrived at the resort, Plaintiff did not respond to her telephone calls so a security check was requested. The Plaintiff was found on the floor shortly after 1:00 A.M. Paramedics responded to the Resort and transported him to a Pittsburgh hospital. Plaintiff informed the paramedics that he was scheduled for back surgery after the first of the year. They noticed an odor of alcohol about the Plaintiff's person and he admitted that he had been drinking. He informed the paramedics that he had a prior spinal trauma from a past assault. Plaintiff's blood alcohol level was found to be elevated.

Plaintiff stated at his deposition that "something moved or rolled under his foot" causing him to trip and fall. Prior to his fall, Plaintiff testified that he had no prior disability nor did he have any prior cervical injury. When presented with his medical rec-

ords, Plaintiff admitted that he had seen a physician prior to his visit at the resort. In early December, 2014, days before he checked into the resort, Dr. Gennaula, a neurologist, saw the Plaintiff for issues with leg weakness, ataxic gait, difficulty ambulating, and one reported fall. The neurologist informed him that the MRJ test results indicated that had a large disc herniation at C-5 and C-6 which was causing the issues with his right arm and his ataxic gait. The Plaintiff was advised that he needed decompression surgery immediately and was cautioned against physical activity. The Plaintiff refused immediate surgery and was informed that failure to treat could result in irreversible myelopathy damage.

Defendant's expert, Dr. Bookwalter, after reviewing the Plaintiffs medical records, determined that the sensations felt by Plaintiff were the result of his spinal cord compression and not the result of the condition of the flooring. He opined that the fall was caused by the Plaintiffs underlying unsteadiness and ataxic gait.

The Defendants submitted photos of the room which failed to show any unattached carpet or any defect which would cause the Plaintiff to trip. Plaintiff presented no evidence that corroborated that the carpet was damaged and not properly adhered to the floor. Nor was any evidence presented that there were any complaints about the carpet prior to his fall and no reports of repairs to the carpet after his fall.

ARGUMENT

The Defendants filed a joint motion for summary judgment. After the relevant pleadings are closed, any party may move for summary judgment. Pa. R.C.P. 1035.2 Summary judgment can be granted only in those cases where the record clearly demonstrates that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law. When considering a motion for summary judgment, the court must take all facts of record and reasonable inferences therefrom, in the light most favorable to the non-moving party. The Court must resolve all doubts as to the existence of a genuine issue of material fact against the moving party and, may only grant summary judgment where the right to such judgment is clear and free from all doubt. *Summers v. Certainteed Corporation*, 997 A.2d 1152 (Pa. 2010). Summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to relief as a matter of law. *Id.*

The Plaintiff brings this action alleging negligence and he must establish the following four elements: (1) a duty or obligation recognized by law; (2) a breach of a duty; (3) a causal connection between the breach of duty and the resulting injury; and (4) actual loss or damage suffered by the complainant. *Wilson v. Peco Energy Co.*, 960 A.3d 229 (Pa. Super. 2012) The Plaintiff has the burden of establishing and proving all of the above elements. *Id.* The duty owed to a business invitee is the highest duty owed to any entrant upon property. A business invitee is a person who is invited to enter or to remain on the property for a purpose directly, or indirectly, connected with business dealings with the possessor of the property. Restatement (Second) of Torts § 332. A property owner is under an affirmative duty to protect a business invitee not only against known dangers, but also against those dangers that might be discovered with reasonable care. In determining the scope of this duty, the possessor of the property is subject to liability for physical harm caused to his invitee by a condition on the property if, but only if he

(I) knows or by the exercise of reasonable care would discover the condition, and should realize that it involves an unreasonable risk of harm to the invitee, and (2) should expect that that the invitee will not discover or realize the danger, or will fail to protect himself against it, and (3) fails to exercise reasonable care to protect the invitee against the danger. Restatement (Second) of Torts §343. The mere occurrence of an accident does not establish negligent conduct. *Martin v. Evans*, 711 A.2d 4S8, 502 (Pa. 1998).

The crux of a premises liability action involving a fall is the Plaintiff's ability to produce evidence of a dangerous or hazardous condition. Restatement (Second) of Torts § 343. Plaintiff must prove the existence of a harmful condition in addition to the Defendant's having actual or constructive notice of such a condition. Plaintiff, as invitee, must demonstrate that the proprietor deviated from its duty of reasonable care owed under the circumstances. Plaintiff has failed to establish that the carpet was loose, raised or unsecured to cause a hazardous condition. The photographs taken of Room 1518 show the carpet without any raised or unsecured portion.

The Plaintiff has presented no evidence that there were any problems noted with the carpet prior to his fall nor that there were any repairs or replacement of the carpet after his fall. There was no evidence presented to corroborate Plaintiff's statement that the carpet was unattached. Unsupported assertions, conclusory allegations or mere suspicions are insufficient to overcome a Motion for Summary Judgment.

The evidence, when viewed in the light most favorable to the Plaintiff does not establish that floor was in a hazardous condition before or after the incident. The absence of any supporting evidence sufficiently demonstrates that Plaintiff has failed to meet his burden.

Plaintiff has failed to demonstrate that, if there were defects in the carpet in that room, that the Resort or Vernosky Carpets were aware of the defects and failed to take the necessary steps to correct the defects. There was no evidence presented that either Defendant had actual or constructive notice of any defects.

Since the evidentiary record in this matter does not contain any evidence that would support a finding of negligence, summary judgment in favor of Nemaocolin Resort and Vernosky Carpets is appropriate.

ORDER

AND NOW, this 4th day of May 2021, after argument and review of the record and the documents submitted by both parties, it is here ORDERED and DIRECTED that the joint Motion for Summary Judgment filed by the Defendants is hereby GRANTED. Plaintiff's action is hereby DISMISSED.

BY THE COURT:
WAGNER, P.J.

ATTEST:
Prothonotary

COURT ANNOUNCEMENT

The Fayette County Court of Common Pleas will resume criminal jury trials in all courtrooms for June Criminal Court and will summon jurors for the duration of the week beginning on Monday, June 7, 2021

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