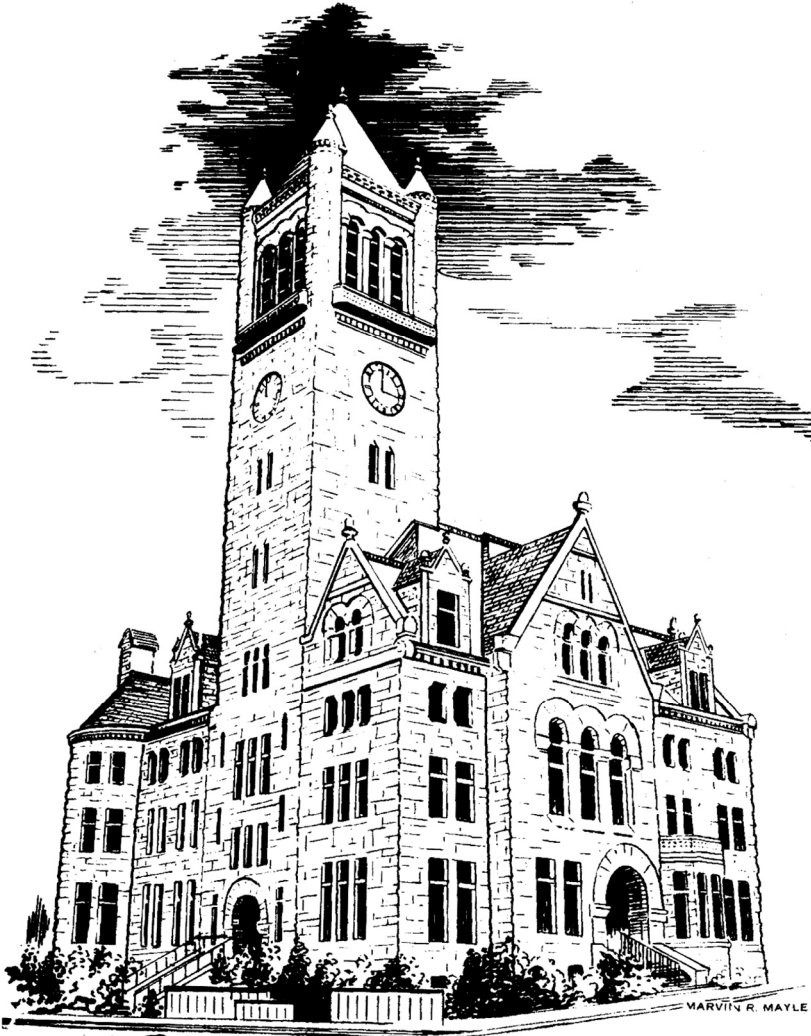


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FAYETTE LEGAL JOURNAL

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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

FRANCES BELL, a/k/a FRANCES LA BELLA, late of Uniontown, Fayette County, PA

Executor: Harold Bell (3)
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

VINCENT CAPOZZA, late of Masontown, Fayette County, PA (3)

Administratrix: Rebecca Capozza
c/o Pratt Law Offices, LLC
223 East High Street
Waynesburg, PA 15370
Attorney: Kimberly Simon-Pratt

DENNIS J. CARINI, late of Belle Vernon Borough, Fayette County, PA (3)

Executrix: Chelsea Carini
71 Sampson Street
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

NANCY J. DEMARK, late of Fairchance, Fayette County, PA (3)

Executor: Charles Enos, III
c/o 815A Memorial Boulevard
Connellsville, PA 15425
Attorney: Margaret Zylka House

ALFRED E. DUBOIS, JR., late of South Union Township, Fayette County, PA (3)

Executrix: Renee L. DuBois
c/o Webster & Webster
51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

ALBERTA J. GALLIK, a/k/a ALBERTA JEAN GALLIK, late of Grindstone, Fayette County, PA (3)

Personal Representative: Alicia M. Johnson
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Michael A. Aubele

TEDDY FRANK LACH, late of Luzerne Township, Fayette County, PA (3)

Personal Representative: Gary Ciesielczyk
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Jeremy J. Davis

CATHERINE E. REGETS, a/k/a CATHERINE REGETS, late of South Union Township, Fayette County, PA (3)

Executrix: Judith R. Queen
c/o Zebley Mehalov & White, P.C.
18 Mill Street Square
Attorney: Mark M. Mehalov

TIMOTHY RAY RITENOUR, a/k/a TIMOTHY RITENOUR, late of Melcroft, Fayette County, PA (3)

Administratrix: Joyce Ritenour
1731 Indian Creek Valley Road
Melcroft, PA 15462
c/o Nakles and Nakles
1714 Lincoln Avenue
Latrobe, PA 15650
Attorney: Ryan P. Cribbs

JOAN P. SCHAFFER, late of South Union Township, Fayette County, PA (3)

Administrator: Gregory L. Schaffer, Sr.
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

DOLORES A. SERINKO, late of Perryopolis Borough, Fayette County, PA (3)
Executor: Regis Serinko, Jr.
 124 Cambridge Lane
 Bellefonte, PA 16823
 c/o 823 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Mark R. Ramsier

DAVID S. THOMAS, late of Smock, Fayette County, PA (3)

Executrix: Betty L. Kashuba
 P.O. Box 113
 Waltersburg, PA 15488
 c/o Radcliffe Law, LLC
 648 Morgantown Road, Suite B
 Uniontown, PA 15401
Attorney: William M. Radcliffe

Second Publication

LARRY R. MARKER, late of Bullsken Township, Fayette County, PA (2)
Co-Executors: Jarrad R. Marker and Shawnee L. Smith
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

MARGARET MAST, late Belle Vernon, Fayette County, PA (2)

Executrix: Carol Lynn Rhodes
 205 Water Street
 Belle Vernon, PA 15012
 c/o Nathan J. Zarichnak & Associates, LLC
 601 1/2 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Nathan Zarichnak

JAMES E. OLESKO, late of Redstone Township, Fayette County, PA (2)

Personal Representatives:
 Anthony J. Olesko and John Olesko, Sr.
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

KRISTIN YUCHA, a/k/a KRISTIN L. YUCHA, late of Masontown Borough, Fayette County, PA (2)

Administrator: Michael E. Yucha, Jr.
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
Attorney: Anne N. John

First Publication

DEBORAH ANN CHURILLA, late of North Union Township, Fayette County, PA (1)

Personal Representative:
 William Glenn Churilla
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Jeremy J. Davis

LARRY R. MARKER, late of Bullsken Township, Fayette County, PA (1)

Co-Executors: Jarrad R. Marker and Shawnee L. Smith
 c/o Proden & O'Brien
 99 East Main Street
 Uniontown, PA 15401
Attorney: Wendy L. O'Brien

MARGARET MAST, late of Belle Vernon, Fayette County, PA (1)

Executrix: Carol Lynn Rhodes
 205 Water Street
 Belle Vernon, PA 15012
 c/o Nathan J. Zarichnak & Associates, LLC
 601 1/2 Broad Avenue
 Belle Vernon, PA 15012
Attorney: Nathan Zarichnak

JAMES E. OLESKO, late of Redstone Township, Fayette County, PA (1)

Personal Representatives:
 Anthony J. Olesko and John Olesko, Sr.
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

**WILLIAM SAYRE JOHN SAYRE, JR. a/k/a
JOHN W. SAYRE, JR.**, late of Perryopolis
Borough, Fayette County, PA ⁽¹⁾

Co-Executrix: Amy Margaret Stillwagon
and Karen Ohler
240 Porter Road
Rostraver Township, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

LEGAL NOTICES

NOTICE OF CLASS ACTION SETTLEMENT

TO: Everyone who signed an oil and gas lease with Chief Exploration & Development, LLC, ("Chief") between August 1, 2008 and October 30, 2008, in which Jim Maguire and Western Land Services Inc. were or purported to be landmen for Chief and Chief rejected the oil and gas leases.

READ THIS NOTICE CAREFULLY.
IT MAY AFFECT YOUR RIGHTS.

The Court on September 1, 2022, preliminarily approved the settlement of a class action in Moore v. Chief Exploration & Development, LLC, No. 2737 of 2011, in the Court of Common Pleas of Fayette County, Pennsylvania. The lawsuit is on behalf of everyone who signed an oil and gas lease described above and who was not paid the bonus amount. The lawsuit claims that Chief did not properly reject the leases. Chief denies the claims in the lawsuit and denies any and all liability, but it has agreed to the settlement to avoid the costs and uncertainties of further litigation.

Chief has agreed to pay \$5,500,000 (the "Settlement Funds") to the settlement class to resolve the litigation. The Court must find that the settlement is fair, reasonable, and adequate. If the settlement is approved and you are a class member, you will be entitled to a payment from the Settlement Funds.

You have the right to remain in the settlement class and receive money. If you do not want to participate, you may exclude yourself by mailing or faxing a letter on or before October 21, 2022. You can also object to the settlement if you do not like some part of it by mailing or delivering a written objection by October 21, 2022.

Instructions are contained in the detailed mail notice. Your rights and whether you are in the settlement class are defined in the mail notice.

The final approval hearing to decide whether to approve the settlement and to determine whether to award attorneys' fees and costs will be held at 9:30 a.m., on December 1, 2022 before the Hon. Steve P. Leskinen, Courtroom No. 1, Fayette County Courthouse, 61 East Main Street, Uniontown, PA. Chief has agreed not to oppose a request for attorneys' fees of up to 1/3 of the Settlement Funds. Anyone who wishes to appear and be heard orally must comply with all requirements in the mail notice.

This notice is only a summary. To obtain more complete information by getting a copy of the mail notice, contact co-counsel for the settlement class, James S. Lederach, at 201 North Chestnut Street, Scottsdale, PA 15683, (724) 887-3600, or visit the website www.MooreSettlementFund.com. You may also contact lead class counsel, David A. Borkovic, at Jones, Gregg, Creehan & Gerace LLP, 20 Stanwix Street, Suite 1100, Pittsburgh, PA 15222, (412) 261-6400. Do Not Contact the Court for Information.

NOTICE OF SALE

Bankruptcy Sale
In Re: Barry & Brenda Donaldson
Case No. 21-21435
Residential Property Located at
311 W. Fayette Street
Connellsville, PA 15425
Listing Price \$62,000.00, higher and
Better offers are accepted
Sale to be held: October 13, 2022 at 11:00 AM
Courtroom B, 54th Floor
U.S. Steel Tower, 600 Grant Street
Pittsburgh, PA 15219-ZOOM HEARING
AVAILABLE
Objections to the sale are due by September 22, 2022
Contact: Paul W. McElrath, Esquire
1641 Saw Mill Run Boulevard
Pittsburgh, PA 15210
(412)-765-3606
Paulm@mcelrathlaw.com
For information: www.pawb.uscourts.gov/
Electronic-access-sales-information EASI #
1795

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 CIVIL ACTION - LAW
ACTION TO QUIET TITLE
 No. 1038 of 2021 G.D.
 JUDGE JOSEPH M. GEORGE, JR.

DENNIS BURKETT, JR.,
 Plaintiff,
 v.
 RAFFORD WINAUGHT, III and
 ROSEMARY WINAUGHT, his wife,
 their successors, heirs, personal representatives,
 and assigns, generally.
 Defendants.

**TO: RAFFORD WINAUGHT, III and
 ROSEMARY WINAUGHT, his wife,
 their heirs, successors and assigns,
 generally,**

You are hereby notified that Dennis Burkett, Jr. has filed a complaint at the above number and term in the above-mentioned court in an action to quiet title wherein it is alleged that he is the owner in possession of that certain lot of land situate in North Union Township, Fayette County, Pennsylvania having a mailing address of 115 Seamans Road, Lemont Furnace, Pennsylvania.

Title to the above described property was conveyed to Rafford Winaught, III and Rosemary Winaught, his wife, by a deed from Barbara A. Franke and Bruce J. Franke, her husband, being recorded at the Recorder of Deeds Office at Record Book 3188, Page 2150.

Said complaint sets forth that the plaintiff is the owner in fee simple of the above-described premises. The complaint was filed for the purpose of barring all of your right, title, and interest, or claim in and to all or a portion of said premises.

NOTICE

You are hereby notified that you have been sued in court. If you wish to defend against the claim set forth in the complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claim set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may entered against

you by the court without further notice or any money claimed in the complaint, or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GOT TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PENNSYLVANIA BAR ASSOCIATION
 PENNSYLVANIA LAWYER REFERRAL
 100 SOUTH STREET
 P.O. BOX 186
 HARRISBURG, PA 17108
 1-800-932-0311

By Jason F. Adams, Esq.
 Adams & Adams
 55 E. Church Street
 Uniontown, PA 15401
 (724) 437-2711

LOGS LEGAL GROUP LLP BY:
CHRISTOPHER A. DeNARDO, PA I.D. NO.
78447 ELIZABETH L. WASSALL, PA I.D.
NO. 77788 LESLIE J. RASE, PA I.D. NO.
58365 SAMANTHA GABLE, PA I.D. NO.
320695 HEATHER RILOFF, PA I.D. NO.
309906 3600 HORIZON DRIVE, SUITE 150
KING OF PRUSSIA, PA 19406 TELEPHONE:
(610) 278-6800 E-
MAIL: PAHELP@LOGS.COM LLG FILE NO.
22-066726 Nationstar Mortgage LLC d/b/a Mr.
Cooper PLAINTIFF VS. Sydney Summers,
known Heir of Michelle K. Micholas, deceased;
C.B., minor, known Heir of Michelle K.
Micholas, deceased; E.B., minor, known Heir of
Michelle K. Micholas, deceased; and Unknown
Heirs, Successors, Assigns and All Persons,
Firms or Associations Claiming Right, Title or
Interest from or under Michelle K. Micholas,
deceased DEFENDANTS COURT OF
COMMON PLEAS CIVIL DIVISION
FAYETTE COUNTY NO: 2022-00914 To the
Defendants, Unknown Heirs, Successors,
Assigns and All Persons, Firms or Associations
Claiming Right, Title or Interest from or under
Michelle K. Micholas, deceased: TAKE
NOTICE THAT THE Plaintiff, Nationstar
Mortgage LLC d/b/a Mr. Cooper has filed an
action in Quiet Title, as captioned above.
NOTICE IF YOU WISH TO DEFEND, YOU
MUST ENTER A WRITTEN APPEARANCE
PERSONALLY OR BY ATTORNEY AND
FILE YOUR DEFENSE OR OBJECTIONS
WITH THE COURT. YOU ARE WARNED
THAT IF YOU FAIL TO DO SO THE CASE
MAY PROCEED WITHOUT YOU AND A
JUDGMENT MAY BE ENTERED AGAINST
YOU WITHOUT FURTHER NOTICE FOR
THE RELIEF REQUESTED BY THE
PLAINTIFF. YOU MAY LOSE MONEY OR
PROPERTY OR OTHER RIGHTS
IMPORTANT TO YOU. YOU SHOULD
TAKE THIS NOTICE TO YOUR LAWYER
AT ONCE. IF YOU DO NOT HAVE A
LAWYER GO TO OR TELEPHONE THE
OFFICE SET FORTH BELOW. THIS OFFICE
CAN PROVIDE YOU WITH INFORMATION
ABOUT HIRING A LAWYER. IF YOU
CANNOT AFFORD TO HIRE A LAWYER,
THIS OFFICE MAY BE ABLE TO PROVIDE
YOU WITH INFORMATION ABOUT
AGENCIES THAT MAY OFFER LEGAL
SERVICES TO ELIGIBLE PERSONS AT A
REDUCED FEE OR NO FEE.
SOUTHWESTERN PA LEGAL SERVICES 45
EAST MAIN STREET UNIONTOWN, PA
15401 724-439-3591 800-846-0871 (toll free)

IN THE COURT OF COMMON PLEAS
FAYETTE COUNTY, PENNSYLVANIA
KeyBank, NA, s/b/m First Niagara Bank, NA
Plaintiff, vs. David Richard Clark, Jr., as
believed Heir and/or Administrator to the Estate
of Janice Clark, AKA Janice K. Clark; John
Michael Clark, as believed Heir and/or
Administrator to the Estate of Janice Clark,
AKA Janice K. Clark; Unknown Heirs and/or
Administrators to the Estate of Janice Clark,
AKA Janice K. Clark Defendants. CIVIL
DIVISION Docket No.: 2022-00079 NOTICE
OF SHERIFF'S SALE OF REAL PROPERTY
PURSUANT TO PENNSYLVANIA RULE OF
CIVIL PROCEDURE 3129 TO: Unknown Heirs
and/or Administrators to the Estate of Janice
Clark, AKA Janice K. Clark 570 Coolspring
Street Uniontown, PA 15401 TAKE NOTICE:
That the Sheriff's Sale of Real Property (Real
Estate) will be offered for public auction online
at <https://fayette.pa.realforeclose.com> on
November 17, 2022 at 2:00PM prevailing local
time. THE PROPERTY TO BE SOLD is
delineated in detail in a legal description
consisting of a statement of the measured
boundaries of the property, together with a brief
mention of the buildings and any other major
improvements erected on the land. (SEE
LEGAL DESCRIPTION ATTACHED AS
EXHIBIT "A"). The LOCATION of your
property to be sold is: 570 Coolspring Street,
Uniontown, PA 15401 The JUDGMENT under
or pursuant to which your property is being sold
is docketed to: No. 2022-00079 THE NAME(S)
OF THE OWNER(S) OR REPUTED OWNER
(S) OF THIS PROPERTY ARE: David Richard
Clark, Jr., as believed Heir and/or Administrator
to the Estate of Janice Clark, AKA Janice K.
Clark; John Michael Clark, as believed Heir and/
or Administrator to the Estate of Janice Clark,
AKA Janice K. Clark; Unknown Heirs and/or
Administrators to the Estate of Janice Clark,
AKA Janice K. Clark A SCHEDULE OF
DISTRIBUTION, being a list of the persons
and/or governmental or corporate entities or
agencies being entitled to receive part of the
proceeds of the sale received and to be disbursed
by the Sheriff (for example to banks that hold
mortgages and municipalities that are owed
taxes), will be filed by the Sheriff thirty (30)
days after the sale, and distribution of the
proceeds of sale in accordance with this
schedule will, in fact, be made unless someone
objects by filing exceptions to it, within ten (10)
days of the date it is filed. Information about the
Schedule of Distribution may be obtained from
the Sheriff of the Court of Common Pleas of
Fayette County, at the Fayette County Sheriff's

Office, 61 East Main Street, Uniontown, PA 15401. THIS PAPER IS A NOTICE OF THE TIME AND PLACE OF THE SALE OF YOUR PROPERTY. It has been issued because there is a Judgment against you. It may cause your property to be held, to be sold or taken to pay the Judgment. You may have legal rights to prevent your property from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE. Pennsylvania Lawyer Referral Service Pennsylvania Bar Association P.O. Box 186 Harrisburg, PA 17108 (800) 692-7375 THE LEGAL RIGHTS YOU MAY HAVE ARE: 1. You may file a petition with the Court of Common Pleas of Fayette County to open the Judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you. 2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of Fayette County to set aside the sale for a grossly inadequate price or for other proper cause. This petition must be filed before the Sheriff's Deed is delivered. 3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of Fayette County. The petition must be served on the attorney for the creditor or on the creditor before presentation to the Court and a proposed order or rule must be attached to the petition. If a specific return date is desired, such date must be obtained from the Court Administrator's Office, Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401, before presentation of the petition to the Court. Dated: 6/21/22 Kimberly J. Hong, Esquire (74950) Manley Deas Kochalski LLC P. O. Box 165028 Columbus, OH 43216-5028 Telephone: 614-220-5611 Fax: 614-220-5613 Email: kjhong@manleydeas.com Attorney for Plaintiff

SHERIFF'S SALE

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

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 November 17, 2022 at 2:00 pm at <https://fayette.pa.realforeclose.com>.

No. 2196 of 2021, G.D.
 No. 131 of 2022, E.D.

The Conditions of sale are as follows:

Reverse Mortgage Funding, LLC
Plaintiff
 v.
Carolyn Allen
Defendant

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder. (1 of 3)

All that certain piece or parcel or Tract of land situate in Redstone Township, Fayette County, Pennsylvania, and being known as 237 Filbert Orient Road, Cardale, Pennsylvania 15420.

Being known as: 237 Filbert Orient Road, Cardale, Pennsylvania 15420

Title vesting in Earl Allen Jr. and Carolyn J. Allen, husband and wife by deed from EARL ALLEN, JR. dated August 21, 2013 and recorded September 3, 2013 in Deed Book 003230, Page 0140 Instrument Number 201300010721. The said Earl Allen Jr. died on February 14, 2017 thereby vesting title in his surviving spouse Carolyn J. Allen by operation of law.

Tax Parcel Number: 30-27-0043 & 30-27-0044

James Custer
 Sheriff of Fayette County

No. 79 of 2022, G.D.
 No. 136 of 2022, E.D.

KeyBank, NA, s/b/m First Niagara Bank, NA
Plaintiff,
 vs.
David Richard Clark, Jr., as believed Heir and/or Administrator to the Estate of Janice Clark, AKA Janice K. Clark; John Michael Clark, as believed Heir and/or Administrator to the Estate of Janice Clark, AKA Janice K. Clark; Unknown Heirs and/or Administrators to the Estate of Janice Clark, AKA Janice K. Clark
Defendants.

ALL that certain parcel of land lying and being situate in the Township of North Union, County of Fayette, and Commonwealth of Pennsylvania, known as 570 Coolspring Street, Uniontown, PA 15401 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 25-47-0088

BEING the same premises which Louise Gregor Silbaugh and John W. Silbaugh, her husband, Dolores A. Gregor, single, and Robert J. Gregor, single, by Deed dated July 10, 1973 and recorded in and for Fayette County, Pennsylvania in Deed Book 1150, Page 337, granted and conveyed unto David R. Clark and Janice K. Clark, his wife.

Brougham Fund I Trust v. Susan Carol Johnson and Robert W. Johnson, 694 Woodside Oldframe Road fka R.D. 2 Box 337 A, Nicholson Township, Smithfield, PA 15478, Tax Parcel No. 24-05-0009. Improvements thereon consisting of a Residential Dwelling, sold to satisfy judgment in the amount of \$106,505.54.

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

No. 562 of 2022, G.D.
No. 162 of 2022, E.D.

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 1599 of 2018, G.D.
No. 160 of 2022, E.D.

Reverse Mortgage Funding LLC
Plaintiff
v.
Diane Hillen
Defendant

All that certain piece or parcel or Tract of land situate in Jefferson Township, Fayette County, Pennsylvania, and being known as 9 Bedner Lane, Perryopolis, Pennsylvania 15473.
Being known as: 9 Bedner Lane, Perryopolis, Pennsylvania 15473
Title vesting in Diane Hillen by deed from Diane Hillen dated March 7, 2007 and recorded May 3, 2007 in Deed Book 3024, Page 407.
Tax Parcel Number: 17050046

Matthew C. Failings, Esquire
Stern & Eisenberg, PC
1581 Main Street, Suite 200
The Shops at Valley Square
Warrington, PA 18976
Phone: (215) 572-8111

No. 1532 of 2013, G.D.
No. 153 of 2022, E.D.

Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, not in its individual capacity but Solely as the Trustee for the Brougham Fund I Trust
v.

Susan Carol Johnson and Robert W. Johnson

By virtue of Writ of Execution No. 1532 of 2013 GD
Wilmington Savings Fund Society, FSB d/b/a Christiana Trust, not in its individual capacity but Solely as the Trustee for the

LAKEVIEW LOAN SERVICING, LLC
5151 Corporate Drive
Troy, MI 48098
Plaintiff

vs.
BRYAN K. KELLY
Mortgagor(s) and Record Owner(s)
514 Washington Street aka
514 Washington Avenue
Belle Vernon, PA 15012
Defendant(s)

ALL THAT CERTAIN LOT OF LAND SITUATE IN BOROUGH OF BELLE VERNON, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.
BEING KNOWN AS: 514 WASHINGTON STREET AKA 514 WASHINGTON AVENUE, BELLE VERNON, PA 15012
TAX PARCEL #01-04-0065 AND O1-04-0226
IMPROVEMENTS: A RESIDENTIAL DWELLING
SOLD AS THE PROPERTY OF: BRYAN K. KELLY
ATTORNEY: KML LAW GROUP, P.C.

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

No. 985 of 2022, G.D.
 No. 170 of 2022, E.D.

Caliber Home Loans, Inc.
Plaintiff
 v.

**Ronald Kenny, Administrator d.b.n.c.t.a. of
 the Estate of Eugene Stanley Edwards**
Defendant

ALL THAT CERTAIN PIECE OR
 PARCEL OR TRACT OF LAND SITUATE IN
 THE CITY OF UNIONTOWN, FAYETTE
 COUNTY, PENNSYLVANIA, AND BEING
 KNOWN AS 28 MAPLE STREET,
 UNIONTOWN, PENNSYLVANIA 15401.

BEING KNOWN AS: 28 MAPLE
 STREET, UNIONTOWN, PENNSYLVANIA
 15401

TITLE VESTING IN EUGENE
 STANLEY EDWARDS BY DEED FROM
 REDEVELOPMENT AUTHORITY OF THE
 CITY OF UNIONTOWN DATED
 DECEMBER 21, 2011 AND RECORDED
 DECEMBER 21, 2011 IN DEED BOOK 3173,
 PAGE 64 INSTRUMENT NUMBER
 201100015335. CORRECTIVE DEED IS
 RECORDED ON 03/05/2012, IN BOOK 3180,
 PAGE 1430, INSTRUMENT 201200003536.
 THE SAID EUGENE STANLEY EDWARDS
 DIED ON JANUARY 22, 2021. LETTERS OF
 ADMINISTRATION WERE GRANTED TO
 RONALD KENNY, NOMINATING AND
 APPOINTING HIM AS THE
 ADMINISTRATOR OF THE ESTATE OF
 EUGENE STANLEY EDWARDS.

TAX PARCEL NUMBER: 38040257

No. 1873 of 2019, G.D.
 No. 137 of 2022, E.D.

Wells Fargo Bank, N.A.
Plaintiff,
 vs.

**Kimberly Mackey, AKA Kimberly D.
 Mackey, AKA Kim Mackey**
Defendant.

ALL that certain parcel of land lying and
 being situate in the Township of Redstone,
 County of Fayette, and Commonwealth of
 Pennsylvania, known as 10 Kennedy Street,

Republic, PA 15475 having erected thereon a
 dwelling house.

Being known and designated as Tax ID
 No.: 30-26-0003

BEING the same premises which Deborah
 Harmen, also known as Deborah Harmen, by
 Deed dated February 20, 2004 and recorded in
 and for Fayette County, Pennsylvania in Deed
 Book 2896, Page 788, granted and conveyed
 unto Kimberly Mackey.

No. 131 of 2022, G.D.
 No. 138 of 2022, E.D.

J.P. Morgan Mortgage Acquisition Corp.
PLAINTIFF
 VS.

Joshua J. Monosky and Krystal L. Monosky
DEFENDANTS

ALL that certain lot or piece of ground
 situate in the Borough of South Connellsville,
 Fayette County, Pennsylvania, being Lot No.
 371 in Plan of Lots laid out by Connellsville
 Extension company, said Plan being recorded in
 the Recorder's Office of Fayette County in Plan
 Book Volume 1, page 114 and 115, and said lot
 being more particularly bounded and described
 as follows:

Fronting 40 feet on the west side of Second
 Street and extending back of equal width 120
 feet to a twenty-foot alley, bounded on the North
 by Lot No. 370 and on the South by Lot No. 372
 in said Plan.

There is also hereby conveyed all Grantors
 interest in and to Lot 370 in Block 20 of said
 Connellsville Extension Company Plan, South
 Connellsville, Fayette County, Pennsylvania
 PARCEL# 33-07-0098

FOR INFORMATIONAL PURPOSES
 ONLY: Being known as 2216 Second Street,
 Connellsville, PA 15425

COMMONLY KNOWN AS: 2216 Second
 Street, South Connellsville, PA 15425
 TAX PARCEL NO. 33-07-0098

No. 975 of 2022, G.D.
No. 161 of 2022, E.D.

**PENNSYLVANIA HOUSING FINANCE
AGENCY,
PLAINTIFF
VS.
MARY ANN MYERS,
DEFENDANT**

ALL those certain lots of land in German Township, Fayette County, Pennsylvania, known as Lot Nos. 2, 3, 4, 5, 6, 7 and 8 in the Frank Lutkowska Plan of Lots, Fayette Plan Book No. 4, page 135.

HAVING THEREON ERECTED DWELLING KNOWN AND NUMBERED AS: 14 LONG STREET, McCLELLANDTOWN, PA 15458.

TAX PARCEL#: 15-25-0066
FAYETTE DEED BOOK 2932, PAGE 1221

TO BE SOLD AS THE PROPERTY OF MARY ANN MYERS

STERN & EISENBERG PC
Robertson, Anschutz, Schneid, Crane
& Partners, PLLC
A Florida professional limited liability company
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

No. 1791 of 2021, G.D.
No. 157 of 2022, E.D.

**CASCADE FUNDING MORTGAGE
TRUST HB5
Plaintiff
v.
DONNA M. WELCH
Defendant(s)**

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

BEING KNOWN AS: 106 WELCH LANE, MARKLEYSBURG, PA 15459

BEING PARCEL NUMBER: 20-01-0007-01

IMPROVEMENTS: RESIDENTIAL PRQPERTY

*** END SHERIFF SALES ***

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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JUDICIAL OPINION

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY
CIVIL DIVISION

| | | |
|----------------------------|---|---------------------------|
| BELLE VERNON ENTRANCE DOOR | : | |
| & WINDOW CO., LLC, | : | |
| Plaintiff, | : | |
| vs. | : | |
| JACOB WRIGHT, JR. and | : | |
| AMANDA WRIGHT, | : | No. 1730 of 2021, G.D. |
| Defendants. | : | Honorable Nancy D. Vernon |

OPINION AND ORDER

VERNON, J.

August 15, 2022

Before the Court is one Preliminary Objection filed by Defendants Jacob Wright, Jr. and Amanda Wright to the Complaint of Plaintiff Belle Vernon Entrance Door & Window, Co., LLC.

FACTUAL BACKGROUND

Plaintiff Belle Vernon Entrance Door & Window, Co., LLC installed entrance doors in the residence of Defendants Jacob Wright, Jr. and Amanda Wright pursuant to a contract for which Defendants remitted full payment of \$8,532.00. See, Amended Complaint, ¶5-8. When Plaintiff finished installation of the doors, Defendants requested Plaintiff to also replace all of the windows in their home. Id. at ¶10. According to Plaintiff, the terms for the windows, including a cost of \$39,900.00, were handwritten on the contract for the doors and Defendants kept the papers. Id. at ¶11-12.

Thereafter, Defendant Jacob Wright, Jr. applied for financing and upon his approval, Plaintiff ordered twenty-eight windows for the job. Id. at ¶14-15. Plaintiff began installation completing twenty-four windows when Defendants raised concerns about the installation. Id. at ¶18-20. Plaintiff explained the concerns were related to the age and structural quality of the framing of the house but that everything would be completed correctly by “shimming” and trimming. Id. at ¶20. Plaintiff also procured assurance from the window manufacturer that the quality of the windows and their installation would be guaranteed. Id. at ¶21.

Nonetheless, Plaintiff alleges that Defendants “without notice or explanation” ordered Plaintiff to not return to the job site or finish the window installation. Id. at ¶22. Defendants remain in possession of the twenty-four installed and the four unhung windows and have made no payments for the same. Id. at ¶23, 26.

Plaintiff instituted the within action by Complaint. Following preliminary objection, Plaintiff filed an Amended Complaint alleging breach of contract, unjust enrichment/quantum meruit, promissory estoppel, and fraud. Defendants’ preliminary objection seeks to dismiss Count IV – fraud based on the gist of the action doctrine.

STANDARD OF REVIEW

When reviewing preliminary objections in the nature of a demurrer, the court must “accept as true all well-pleaded material facts set forth in the complaint and all inferences fairly deducible from those facts.” *Thierfelder v. Wolfert*, 52 A.3d 1251, 1253 (Pa. 2012). In deciding a demurrer the face of the complaint must indicate that the “claims may not be sustained and that the law will not permit a recovery. If there is any doubt, it should be resolved by the overruling of the demurrer.” *Melon Bank, N.A. v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. 1994). “Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.” *Bower v. Bower*, 611 A.2d 181, 182 (Pa. 1992).

DISCUSSION

By way of their preliminary objection, Defendants seek to dismiss Plaintiff’s tort claim for fraud as being barred under the “gist of the action” doctrine in Pennsylvania, alleging that the gist of this action lies in contract and not tort. Plaintiff argues that its fraud claim should survive objection as Defendants’ representation that they would pay for the windows was material and patently false, as at the time of formation of the contract, Defendants did not possess the intent to pay Plaintiff, rather Defendants maintained a plan to obtain windows at no cost to them.

The “gist of the action” doctrine is applied in Pennsylvania “to preclude plaintiffs from re-casting ordinary breach of contract claims into tort claims.” *eToll, Inc. v. Elias/Savion Advertising, Inc.*, 811 A.2d 10, 14 (Pa.Super. 2002). In marking the distinction between contract and tort actions, “[t]he most important difference ... is that the latter lie from breach of duties imposed as a matter of social policy while the former lie for the breach of duties imposed by mutual consensus.” *Id.* Therefore, “a claim should be limited to a contract claim when the parties’ obligations are defined by the terms of the contracts, and not by the larger social policies embodied by the law of torts.” *Reed v. Dupuis*, 920 A.2d 861, 864 (Pa.Super. 2007).

In determining whether the gist of the action doctrine applies, our Superior Court has examined whether the claim of fraud arises directly out of the contract dispute. *Id.* There is no “categorical exception for fraud,” so “it is possible that a breach of contract also gives rise to an actionable tort.” *eToll, supra.*, 811 A.2d at 14, 19. In making the determination, a court should focus on “whether the fraud concerned the performance of contractual duties.” *Id.* at 19. Under Pennsylvania case law, the gist of the action doctrine bars tort claims:

(1) arising solely from a contract between the parties; (2) where the duties allegedly breached were created and grounded in the contract itself; (3) where the liability stems from a contract; or (4) where the tort claim essentially duplicates a breach of contract claim or the success of which is wholly dependent on the terms of the contract.

Id.

Here, Plaintiff alleges that Defendants agreed that Plaintiff would complete the installation of the windows for \$39,900.00. See, Amended Complaint ¶11. As to the fraud allegation, Plaintiff alleges that “Defendants represented to Plaintiff that they would obtain financing in order to pay for the window installation, which constitutes a representation that is material to the agreement between Defendants and Plaintiff.” Id. at ¶50. Plaintiff further alleges that Defendants executed an application for financing which was approved and that the application for financing was completed by Defendants “with the specific intent and knowledge that they had no intention to pay Plaintiff for the windows.” Id. at ¶52. Plaintiff argues that “defendants knowingly false representation induced Plaintiff to order the windows and begin installing them into Defendants’ home” and that “Plaintiff justifiably relied on Defendant’s representation that they were going to pay for the windows with the borrowed funds from Enerbank USA.” Id. at ¶53 and 54.

The facts alleged in Count IV – Fraud of Plaintiff’s Amended Complaint reflect only duties derived from a breach of the parties’ contractual relationship, rather than some broader social duty. Specifically, Plaintiff alleges that Defendants have failed to pay for the purchase and installation of the windows – the essence of their required performance under the contract. A claim should be limited to a contract claim when the parties’ obligations are defined by the terms of the contracts, and not by the larger social policies embodied by the law of torts. As such, based upon the allegations of the Amended Complaint, Plaintiff’s claim of fraud is barred by the gist of the action doctrine, which precludes the transmutation of its contract claim into a tort claim. Accordingly, the demurrer to Count IV – Fraud of the Amended Complaint will be sustained.

WHEREFORE, we will enter the following ORDER.

ORDER

AND NOW, this 15th day of August, 2022, upon consideration of the Preliminary Objection filed by Defendants Jacob Wright, Jr. and Amanda Wright to the Complaint of Plaintiff Belle Vernon Entrance Door & Window, Co., LLC, and the record, it is hereby ORDERED and DECREED that the Preliminary Objection is SUSTAINED and Count IV – Fraud of Plaintiff’s Amended Complaint is DISMISSED in accordance with the foregoing Opinion.

BY THE COURT,
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

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

- Date: **Wednesday, September 21st from 12:00 p.m. to 1:30 p.m.**
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **Auto Stops and Searches**
- Presenter: Professor Bruce A. Antkowiak, J.D.

CLE Credit

1.5 hours of Substantive 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, 2017

- 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.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, September 19th.

BENCH BAR CONFERENCE

Fayette County Bar Association Bench Bar Conference
Wednesday, October 12, 2022
The Historic Summit Inn

AGENDA

- 8:30 **Meet the Sponsors & Breakfast Buffet**
- 9:00 **Getting Paid – Financial Management & Marketing Tips**
Ellen Freedman, CLM - Law Practice Management Coordinator
1.5 Ethics and 0.5 Substantive CLE Credits
- 11:00 **Break**
- 11:15 **Practice and Procedure Panel Discussion with the Judges of the Fayette County Court of Common Pleas**
President Judge John F. Wagner, Jr., Judge Steve P. Leskinen, Judge Nancy D. Vernon, Judge Linda R. Cordaro, and Judge Joseph M. George, Jr.
1.0 Substantive CLE Credit
- 12:15 **Remarks by Special Guests**
Chief Justice Debra Todd, Pennsylvania Supreme Court
Pennsylvania Bar Association President Jay N. Silberblatt
- 12:30 **Lunch Buffet**

BENCH BAR CONFERENCE

Fayette County Bar Association Bench Bar Conference
Wednesday, October 12, 2022
The Historic Summit Inn

Panel Discussion/Questions & Answers

The Judges of the Fayette Court of Common Pleas are accepting questions for the panel Q&A discussion. Questions may cover trial tactics, local practice and procedure, or general legal questions, but should not inquire about cases pending or adjudicated before the Court. Questions are due by Wednesday, October 5th. To submit a question for consideration, please follow the link in your email invitation or email to cindy@fcbar.org.

Fees to Attend

FCBA members - \$75
Non-members of the FCBA - \$125
Attorneys admitted to practice in Pennsylvania
after January 1, 2017 - \$50
All fees to be paid at the door.

RSVP due Wednesday, October 5th to
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