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IN THIS ISSUE

BARBARA JO ENTWISTLE VS. JULIA C. RETOWSKY
AND KELLY S. RETOWSKY

(Part 4 of 4)

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FICTITIOUS NAME REGISTRATION

An application for registration of the fictitious name BOLLINGER DISTRIBUTING, 104 Ocelot Drive, Hanover, PA 17331 has been filed in the Department of State at Harrisburg, PA, File Date 01/28/2021 pursuant to the Fictitious Names Act, Act 1982-295. The name and address of the person who is a party to the registration is Michael Bollinger, 104 Ocelot Drive, Hanover, PA 17331.

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LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization - Domestic Limited Liability Company was filed with the Commonwealth of Pennsylvania, Department of State, in Harrisburg, Pennsylvania, on March 12, 2021, under the provisions of the Pennsylvania Limited Liability Company Law of 1994 as amended.

The name of the Limited Liability Company is CREPE O'CLOCK, LLC.

Crepe O'Clock, LLC is organized for the purpose of operating as a restaurant that prepares and serves food and drink to customers with takeout and food delivery services.

Arthur J. Becker, Jr., Esq.
Attorney for Crepe O'Clock, LLC

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CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on March 25, 2021, the Petition of Evan Matthew Fisher, was filed in the Court of Common Pleas of Adams County, Pennsylvania, requesting an Order be entered to change the name of Evan Matthew Fisher to Evan Matthew Kichler.

The Court has scheduled a hearing on the Petition to be held on June 11, 2021 at 10:30 a.m., in the assigned Courtroom of the Adams County Courthouse, Gettysburg, Pennsylvania when and where all interested parties may appear and show cause, if any, why the relief requested in the Petition should not be granted.

Matthew R. Battersby, Esq.
Battersby Law Office
P.O. Box 215
Fairfield, PA 17320
717-642-6260

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BARBARA JO ENTWISTLE VS. JULIA C. RETOWSKY
AND KELLY S. RETOWSKY

(Part 4 of 4)

3. Suspension of APL For One Month.

Third, Kelly claims that bias is shown by what he calls the Court's "unusual decision" to suspend APL for a period of one month from August 10 – September 10, 2018. As noted, Kelly requested APL on May 18, 2018. The procedural rules relating to claims for APL are found at Pa. R.C.P. 1910.1 et seq. The Domestic Relations Section conducted a conference and determined that Kelly had a net monthly income of \$3,035.85 and Julia had a net monthly income of \$9,007.85. Utilizing the guidelines, a recommended order dated July 30, 2018 directed Julia to pay the amount of \$2,216.00 per month to Kelly as APL.³³ On August 9, 2018 Julia filed a Demand For Hearing challenging the prior calculation of the parties' incomes.³⁴

A *de novo* hearing³⁵ was held before the Court on September 18, 2018. Testimony was presented that Julia had worked as a registered nurse for at least 16 years and was licensed in New Hampshire, Maine, Maryland, Massachusetts and Pennsylvania. Julia would be contracted, through an agency, to work at different locations, for limited periods of time, depending upon staffing needs. For example, from October 2016 until January 2017 she had a 13-week contract to work at a hospital in the Washington, D. C. area and lived with her aunt in Howard County, Maryland. Then in 2017 she worked at a hospital in Chambersburg, Franklin County, Pennsylvania.³⁶ That contract ended in January 2018 and, because there were no local

³³ Pa. R.C.P. 1910.5 requires that after the filing of the request for APL the parties are to appear before a conference officer. At the conference the officer is to calculate the parties' incomes and calculate and recommend a guideline amount of APL. Rule 1910.11(d). If the parties do not agree the court, without hearing the parties, is to enter an interim order calculated in accordance with the guidelines. Rule 1910.11(f).

³⁴ Pa. R.C.P. 1910.11(f) provides that within 20 days after the date of mailing of the interim order any party may challenge the results of the interim order by demanding a hearing before the court.

³⁵ The term "de novo" means from the beginning. A *de novo* hearing is conducted on a clear record free from any facts or conclusions made at the domestic relations conference.

³⁶ Chambersburg is approximately 25 miles from Gettysburg, the county seat for Adams County.

openings, she accepted a 26-week agency contract in Massachusetts.³⁷ That contract ended August 9, 2018. At that point, the only opening her agency had available was in Missouri where she was not licensed. Furthermore, because all of her assets were in Adams County, her daughter was having a baby, and she was still litigating the divorce action, Julia began looking for work closer to her home. Effective September 10 she began working at Northwest Hospital in the Baltimore, Maryland area.

At the time of the de novo hearing Julia was earning \$7,392.82 gross per month. Kelly's earnings were recalculated to \$1,738.00 gross per month, based upon more complete information than was available at the time of the conference. Utilizing the testimony provided by the parties, and strictly applying the guidelines, the Court entered an APL order based upon the parties' actual circumstances. The Court directed Julia to pay APL in the amount of \$2,924.00 per month for the period from May 30 – August 9.³⁸ APL was suspended for the period August 10 – September 10 when Julia was unemployed. Effective September 11, 2018, APL was directed in the amount of \$1,667.00.

As can be seen, the Court demonstrated no bias or partiality. Net income used for calculating APL was based solely upon the information provided by the parties. APL was then determined by inserting those figures into the formula provided for in the guidelines established by the Pennsylvania Supreme Court. There was nothing "unusual" about suspending APL for a period of time when Julia was unemployed through no fault of her own.

4. Waiver of Oral Argument On Divorce Exceptions But Conducting a Hearing In Defamation Action.

Fourth, Kelly suggests that when the Court dispensed with hearing oral argument on the parties' exceptions to the divorce master's report, partiality against him was somehow demonstrated. On February 4, 2020, Julia and Kelly separately filed exceptions to the divorce master's report. Pa. R.C.P. 1920.55-2(c) states that after the filing of exceptions "[t]he court shall hear argument on the

³⁷ There she received not only a salary but a housing allowance. The divorce had been filed by this time and she knew that her life was changing. Her family owned a residence in Maine so she wanted to go in that direction.

³⁸ An increase of \$708.00 per month.

exceptions ...” Therefore, on February 11 the Court entered orders directing the filing of briefs and noted that oral argument would be scheduled by a separate order.

Shortly thereafter, because of the pandemic, emergency restrictions related to court proceedings and filings were put into place by President Judge George. Briefs were accepted later than originally directed. By email, dated April 13, 2020, the undersigned advised counsel that because of the pandemic I was considering moving to disposition without oral argument. At that time, I raised four questions including whether counsel was opposed to waiving argument, and if so, for the parties to state their specific objection. Later that same day Attorney Quinn, replied that he was not opposed to waiving oral argument but wanted to confer with his client, Julia. He did not respond further. The response of Kelly’s counsel, Attorney Nock, on April 16 merely stated “I will proceed by abiding by the appropriate directives.” Because there was no express objection, I later determined to dispense with oral presentation and used the arguments set forth in each parties’ briefs.³⁹ Regrettably, I failed to expressly notify counsel of that decision by subsequent communication. Final disposition of the exceptions was entered on June 5. Instead of asking for reconsideration of that disposition and the opportunity to orally argue the issues, Kelly filed an appeal and included the failure to hold oral argument as an issue for the Superior Court to address. Recently, the Superior Court found Kelly’s argument on this issue to lack merit.

Now, in light of dispensing with oral argument in April 2020, Kelly points to the fact that the Court held a hearing on June 23, in the defamation action filed by Barbara against him, as suggesting some level of partiality toward her and against him. As noted earlier, Barbara filed a defamation action against Kelly on May 12, 2020 alleging that he had disparaged her in a series of social media postings. At the same time, she filed a Petition For Preliminary Injunction Relief. The nature

³⁹ Frankly, the Court’s 35-year experience has been that, in most cases, oral argument is of little value to me in resolving issues addressed in written briefs because counsel generally use the occasion to simply repeat verbatim the same language expressed in their brief. Until the Court has had an opportunity to work through the record, the arguments offer limited insight. Instead, I have found it more useful to occasionally schedule oral arguments later in the course of drafting my written opinion if I need counsel to clarify or expand upon positions expressed in the briefs. Because the legal positions advocated by Julia and Kelly were clearly stated in their briefs the need to request further clarification was unnecessary.

of the allegations and the relief requested required that a hearing be scheduled rather quickly to determine whether a preliminary injunction should be granted. The hearing was scheduled for June 23. By order dated June 24 Barbara's petition for injunctive relief was denied and dismissed as a request for prior restraint of speech, contrary to the provisions of Article 1 §17 of the Pennsylvania Constitution.

These two incidents⁴⁰ are not comparable and offer no hint of partiality. In the first instance the parties already had presented their testimony to the divorce master and had filed briefs setting forth their legal position as to their respective exceptions. The Court asked whether, in view of the pandemic, they would agree to waive oral argument. No objection was offered. Not holding oral argument gave no advantage or disadvantage to either Julia or Kelly because their positions on the various exceptions were already clearly stated in their briefs. However, when the petition for injunctive relief was filed, waiving a hearing was not an option.

5. Alleged Denial of APL While Divorce Action On Appeal.

Finally, Kelly contends that some partiality is shown against him because the Court 1) allegedly denied him APL during the pendency of the appeal in the divorce proceeding and 2) used an incorrect legal standard when denying his motion for a stay of the June 5 order. As noted, APL was awarded by Order dated September 20, 2018. The divorce master submitted his report and recommendation on January 21, 2020. His report did not address APL because that claim was not an issue the master was directed to determine. On February 4, 2020, Julia and Kelly filed their individual exceptions to the report.

Unknown to the undersigned, on March 4, 2020, Kelly filed a request for modification of APL with the Domestic Relations Section pursuant to Pa. R.C.P. 1910.19. Disposition of that request was purportedly delayed because of the pandemic.

On June 5, 2020, the Court filed its decision on the exceptions to the master's report. The Order expressly stated that exceptions were sustained or denied in accordance with the attached Memorandum Opinion. The equitable distribution plan, award of alimony, and decision as to counsel fees as set forth in the Memorandum Opinion were adopted as a final order. No mention regarding APL was made in the

⁴⁰ Lack of oral argument on the divorce exceptions on the one hand and conducting a hearing with parties present in the defamation action on the other.

Order. However, the Memorandum Opinion did mention that APL would terminate effective upon the date of the final order. Technically, that was correct because, unless Kelly filed an appeal, he was not entitled to receive APL beyond that date. To the extent that the Memorandum Opinion and Order may have appeared confusing on the issue of APL, no party sought clarification, either formally or informally. Instead, on July 2, 2020, Kelly filed an appeal from this Order. He was directed to file a statement of matters complained of on appeal pursuant to Pa. R.App.P. 1925 to which he complied on July 27. Rightfully, he did not raise any concern about APL because that was not an issue decided by the Court on June 5.

On August 4, 2020 the Domestic Relations Section held a conference on Kelly's APL modification request filed March 4, 2020. Of course, by this time the parties were well aware of the June 5 Order and that Kelly had filed an appeal. The law is clear that APL can be directed while a divorce appeal is pending. It is unknown whether Kelly advised the conference officer that he filed an appeal and desired for APL to continue beyond June 5. Nevertheless, on August 21, 2020, a recommended APL order was entered⁴¹ directing Julia to pay Kelly the sum of \$1,982.00 per month for the period March 4 – June 4, 2020. That order went on to provide that “[e]ffective June 5, 2020, APL shall be terminated without prejudice due to an Order of Court being issued within the parties’ divorce proceeding terminating APL.” (Emphasis added). This provision was an erroneous interpretation of the June 5 Order because, as noted, that order never mentioned APL. If Kelly was concerned about the August 21 order, he could have filed a timely demand for a hearing de novo pursuant to Pa. R.C.P. 1910.11(f), but he failed to do so. Consequently, APL terminated pursuant to the express provisions of the order. If Kelly had requested a hearing de novo the Court could have analyzed his entitlement to APL during the pendency of the appeal. Without that request the Court had no jurisdiction to address the question of APL.

Kelly's appeal, filed on July 2, did not automatically act as a stay of the decision being appealed. See Pa. R.App.P. 1731(b). Instead, the appellate rules require an appellant to seek a stay from the trial or appellate court. Consequently, on September 29, 2020, Kelly filed a Motion For Stay Pending Appeal. Therein he requested the Court

⁴¹ Signed by Hon. Christina M. Simpson pro forma.

to stay implementation of the provisions of the June 5 Order while the appeal was pending. A party seeking a stay must demonstrate an entitlement thereto. The threshold an appellant must meet in order to obtain a stay has been set forth by the Pennsylvania Supreme Court in *Pa. Public Utility Commission v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983). The Court discussed each of those criteria, in a 13-page opinion and Order dated November 6, 2020, and concluded that Kelly was not entitled to a stay.

Kelly now contends that the Court should not have used the aforementioned standard when addressing the stay. Instead, he argues that the Court should have followed *Shuda v Shuda*, 423 A.2d 1242 (Pa. Super. 1980), and by failing to do so the Court improperly denied him APL during the pendency of his appeal. Kelly's argument is neither legally sound nor demonstrative of any partiality.

Contrary to Kelly's view, *Shuda* does not create a standard for determining whether an appellant in a divorce case is entitled to a stay. Instead, it stands for the proposition that an appellant in a divorce case has a right to seek and receive APL during the pendency of the appeal. *Id.* at 1244. The undersigned has no dispute with that proposition.

However, the issues raised by Kelly in his appeal and the stay he sought with respect to implementation of the Order of June 5 had nothing to do with APL or the right to seek the same pending the appeal. As described earlier, Kelly did seek a modification of APL but failed to appeal the Order of August 21. Therefore, that order became final and APL was terminated per its provisions. Nothing prevented Kelly from filing another petition for APL with the Domestic Relations Section, and the Court hinted the same when addressing the motion to stay. To my knowledge, Kelly never filed such a petition. Of course, the right to file for APL and entitlement to receive the same, are two different issues. Whether, and to what extent, Kelly might have been entitled to APL if he tried to pursue it pending the appeal was dependent upon his ability to show need.

Consequently, Kelly's current predicament regarding APL has nothing to do with partiality by the Court but rather his own failure to appeal the Order of August 21 to the court for a hearing de novo.

B. The Defamation Action

On May 12, 2020, Barbara filed the defamation complaint against Kelly. Therein she averred that she is an attorney who has practiced

law in Adams County since 1984. She claimed that on April 30, 2020, Kelly posted comments on the “Borovent Gettysburg’s Facebook page” which were defamatory per se. More specifically, she contended that Kelly made statements accusing her of stealing a house from a former client’s husband. She averred that this Facebook site has over 4700 members.

On June 23 the Court conducted a hearing on Barbara’s request for a preliminary injunction wherein she sought to prevent Kelly from making any further defamatory publications about her. Prior to receipt of testimony, Kelly moved to dismiss the request. There was some legitimate concern about the right to obtain the injunction because it might constitute a prior restraint upon speech, contrary to provisions of the Pennsylvania Constitution. However, before deciding whether to sustain the motion to dismiss the Court granted Barbara an opportunity to develop a record.

During the hearing Barbara testified that she had just learned of a YouTube video allegedly produced by Jake Bylsma which contained derogatory references about judges and attorneys, including her office. She had a copy of the video marked as an exhibit. Kelly was questioned as to whether he provided information to Mr. Bylsma that was used in the video. His replies were somewhat evasive or nonresponsive. Because Barbara could not establish a connection between Kelly and the video, the exhibit was never entered into the record.⁴² The Court denied the request for the preliminary injunction.

Now Kelly claims that the undersigned and all other judges of the Court of Common Pleas of Adams County have recused themselves from recent cases involving Mr. Bylsma. He also claims that Mr. Bylsma regularly includes public information regarding the divorce action in his on-line videos, including one on January 28, 2021. He feels that, if the sitting judges have recused themselves from Mr. Bylsma’s cases, the undersigned should recuse myself from the partition case.

Mr. Bylsma is alleged to have involvement in a number of criminal matters in Adams County. For reasons known to them, all of the sitting judges of the County have recused themselves from matters with Mr. Bylsma. As a senior judge I only have authority to preside over cases to which I have been assigned by the Supreme Court. To

⁴² The Court did not view the contents of the video as it was retained by Barbara.

date no such assignment has been tendered so I have no stake in any proceeding involving Mr. Bylsma. Therefore, there was no need for the undersigned to be recused from Mr. Bylsma's cases.

Kelly has failed to show that the undersigned has shown any partiality against him because of Mr. Bylsma's alleged conduct.

C. The Partition Action.

1. Appointment of A Master.

Kelly claims that the Court's failure to appoint a master in this partition action is an indication of partiality on the part of the Court. Contrary to this position, the background does not suggest a desire on the part of the Court to retain a level of control, to the prejudice of any party, nor does it suggest "a degree of personal embroilment in the matters of the Parties" which harms Kelly.

One must be mindful that partition actions are pursued where joint owners of real estate no longer desire to remain in that relationship. Therefore, the primary purpose of a partition proceeding of real estate is to enable each owner to possess and control his/her own share of the estate exclusive of his/her co-owners. It also allows joint owners who no longer desire to own any part of that particular property to completely divest themselves of ownership. *Goodrich Amram* 2nd §1551:1.

Here, as mandated by the Rules of Civil Procedure,⁴³ the Court required the parties to appear for a conference on February 15, 2019, "to discuss substantive and/or procedural resolution of the issues in this case." Rule 1558 describes matters that must be discussed at the conference including "whether any issues or matters ... shall be referred to a master." The Rule contemplates a court compelling the parties to state their position and concede matters not reasonably contested.⁴⁴ At that time, all parties agreed for the property to be sold. Neither Barbara nor Julia desired to purchase their co-owners' interests in the real estate. Kelly wanted a sale to be delayed until equitable distribution matters were resolved in the divorce litigation. The Court denied that request because: such a delay would be contrary to interests of Barbara who was not a party to the divorce proceeding; the delay could be substantial and; the issues in the divorce matter would not be simplified by a delay in the partition action. At

⁴³ Pa. R.C.P. 1558.

⁴⁴ *Goodrich Amram* 2nd §1558(a)(7).

the request of the parties, they were given an opportunity to market the property through a real estate broker subject to stated parameters.⁴⁵ Contrary to Kelly's recollection, whether to appoint a master was discussed at that time.

Rule 1558 only mandates that the court and parties discuss the need for a master at the time of the conference.⁴⁶ However, whether to appoint a master in a partition case is within the discretion of the court.⁴⁷ Whether to appoint a master is dependent upon a number of factors, none of which supported the need for such an appointment in this case. For instance, there is no need to determine a physical division of the property, engage a surveyor, or assure access easements because the goal has been to sell the property intact. Sometimes masters are used because they are more flexible in fixing hearing dates and adhering to the convenience of the parties and witnesses. Here, the undersigned is a senior judge, therefore flexibility and convenience do not present the same concern as might be the case for a sitting judge who is presiding over a full caseload. Furthermore, when a master is appointed the parties incur costs which are not imposed when a court supervises and decides the matter. By the Court retaining supervision of the litigation those costs and fees would not be incurred. Finally, if a master is appointed and files a report the parties would have the opportunity to file exceptions which would have to be addressed by a court. Therefore, maintaining the action with the Court, in this case, would eliminate that step and its ensuing delay and expense for the parties. Thus, it appeared to the Court that appointment of a master was not necessary nor appropriate in this matter and that the parties understood one would not be appointed.

⁴⁵ The property has been listed with the same realtor throughout this proceeding. Several times a new listing agreement had to be authorized by the Court. Only recently have any offers been tendered by prospective buyers and none have resulted in full agreement by the parties.

⁴⁶ Goodrich Amram 2nd §1558(b)(1).

⁴⁷ At one point in time partition was determined by a court in equity and the entire matter was referred to a master as soon as the pleadings were filed. The master then decided 1) whether there should be partition, 2) who are the co-tenants, 3) how to divide the parcel, and 4) the value the estate. The master would then draft a report for court review. After 1894 the appointment of a master ceased to be automatic. Goodrich Amram 2nd §1158(b).

After the conference the parties were given 90 days to file memorandums stating their position as to their individual shares of the net proceeds resulting from the ultimate sale of the property. Those memorandums were eventually submitted.⁴⁸ Except for effectuating actual sale of the property to some prospective buyer, the sole issue remaining is how to calculate each party's share of the net proceeds of the sale.

On September 8, 2020, Kelly filed a pleading⁴⁹ wherein he requested appointment of a master. He averred that the issue of such appointment was not discussed at the conference held 19 months earlier. The basis for the request was stated as follows:

Due to the complicated nature of this matter, the motives of those involved, and several other factors, [Kelly] believes that appointment of a Master is appropriate if this action is to continue.

In the Order dated October 22, 2020, the Court denied the request, stating in part:

The Court recalls, contrary to the recollection of [Kellys'] counsel, that the issue of appointing a master was addressed at a conference held February 15, 2019. As were the circumstances at that time, the Court presently determines that no issues have been presented in this partition action which require the appointment of a master and that the appointment of a master will result in a waste of judicial resources and a delay in final disposition. Accordingly, Defendant's request is denied at this time.

Clearly, the failure to appoint a master in this action is legally sound and unrelated to any alleged bias or prejudice.

2. Interpretation of October 22, 2020 Order.

Kelly also alleges that this Court's interpretation of an Order dated October 22, 2020 "makes little sense" and evidences the undersigned's inability to preside impartially. After the conference held on February 15, 2019, the parties were given the opportunity to agree upon a list price and a broker to market the property. If the parties were unable to agree, they were to submit proposals to the Court. The parties were unable to agree. By Order dated April 16, 2019, the

⁴⁸ Each party suggested a different theory for allocation of their interests.

⁴⁹ Answer to Barbara Jo Entwistle's Petition For Special Relief.

Court directed that Brad Shafer (Kelly's proposed agent) be utilized as the listing agent for the sellers. The initial listing period was for 6 months but could be extended by agreement of the parties or by direction of the Court. The initial listing price was to be the amount recommended by the agent. The parties were directed to fully cooperate with the agent's efforts to market the property.

On June 6, 2019, Barbara filed a Petition For Special Relief alleging that on May 8, 2019 she received a draft of a listing contract with a listing price of \$1.2 million but no commencement date. She further averred that as of June 3 Kelly had not signed the listing agreement. By Order dated June 26, 2019, the Court addressed this Petition and, *inter alia*, directed the parties to execute a listing agreement by July 5.

On December 19, 2019, Barbara filed a Petition For Special Relief noting that the listing agreement was to expire on January 5, 2020 and requested that the property be listed with a different agent and for a different price. By Order dated January 28, 2020, and upon agreement of the parties, the parties were directed to execute a new 4-month listing agreement with Mr. Shafer within 10 days and for a list price of \$1 million. The listing could be extended by agreement of the parties.

On August 18, 2020, Barbara filed a Motion For Order Regarding Listing Agreement stating that the parties' current listing agreement was due to expire on September 3, 2020. She was requesting a new listing agreement which would reduce the listing price by \$50,000 every 3 months. By Order dated October 22, 2020, and upon agreement of the parties, the Court directed, *inter alia*, 1) the parties were to execute a new 6-month listing agreement within 10 days, 2) the initial list price was to be \$950,000.00 and 3) there would be periodic reductions of the list price in accordance with a prescribed schedule. Because the terms of the periodic reduction could impact the marketability of the property, the Court directed that the Order be under seal and that the parties not disclose any anticipated adjustments.

Subsequently, both Julia (November 6, 2020) and Barbara (November 12, 2020) filed contempt petitions alleging that Kelly had not signed the listing agreement within 10 days as directed in the Order of October 22, 2020. That order expressly provided (as did prior orders) that "the parties, and not Mr. Shafer, are ultimately responsible for the timely execution of the listing agreement." Documentation, in

the form of an email exhibit from Mr. Shafer, attached to the petitions, indicated that he had not received the listing agreement from Kelly as of November 6 (15 days after the Order). Hearing on the contempt petitions was set for January 8, 2021. Because Kelly voiced his request for recusal, that hearing could not be held.

However, at that time Barbara questioned the effective date of the listing agreement. This was important because, that date would trigger the time for calculating list price adjustments. The parties agreed that Kelly had ultimately signed the listing agreement but the date he did so was not revealed. Nevertheless, Kelly would not stipulate as to an effective date of the listing contract. As a result, and so that the parties could proceed with the marketing of the property, the Court entered an Order stating, in pertinent part:

there being a question as to the effective date for a reduction in the list price of the subject real estate pursuant to Paragraph 1(E) of the Order dated October 22, 2020, and the Court having provided therein that the parties were to execute the listing agreement within 10 days of the date of that Order, which would be November 1, 2020, the Court directs that the first reduction in the purchase price pursuant to Paragraph 1(E) would therefore be ... months after November 1, 2020.

Under the circumstances, the order “makes sense” because it extends the date of the listing agreement to the latest possible date consistent with the October 22 order. Furthermore, no bias or prejudice toward Kelly is present because it did not address the issue of contempt.

III. Appearance of Impropriety

When viewing the accusations made by Kelly, and the evidence used in support thereof, it is highly unlikely that a significant minority of the lay community would reasonably conclude that my continued involvement in this case is improper. In support of that conclusion, one need only examine the proceedings involving these parties. Issues raised in the divorce action were decided both for and against Kelly. He had the opportunity to appeal any decision in that matter where he believed there was error or bias. Arguments that Kelly made to the Superior Court regarding the undersigned’s decisions were rejected by that court.

Only one decision has been made in the defamation action and it was entered in Kelly's favor.

Few decisions have been made in the instant partition litigation, however, partiality is not even remotely evident in this case. The property is being marketed by the real estate agent proposed by Kelly and for an initial list price determined by that realtor. Subsequent reductions in list price have been by agreement. The only issue not decided in Kelly's favor was whether to appoint a master and the basis for that decision is discussed above.

CONCLUSION

One cannot deny the sobering effect of having his fairness challenged. Nevertheless, a judge has an obligation to address the cases assigned unless a valid argument for recusal has been presented. Here that threshold has not been reached.

The allegation that one party is an attorney and might be an acquaintance of a judge is little different than the presence of a local minister, banker or government official being both an acquaintance and a party in a case. That minimal type of relationship with a judge, without more, is not enough to warrant recusal. Here, the facts do not support Kelly's assumptions as to the existence of a questionable relationship between the undersigned and a party in the case. The new issues raised at the hearing do not demonstrate substantial evidence of bias or prejudice nor do they reasonably call into question my partiality.

Kelly's other arguments, which he is no longer pursuing, are based solely upon his disagreement with judicial rulings, mostly in other cases, and appear to be an effort to engage in judge shopping. Those rulings have been explained and represent sound judicial reasoning, not partiality.

I can state with clear conscience that I have no bias, prejudice, partiality or interest in the outcome of this case and find that none has been established on the record.⁵⁰ I feel confident that I can

⁵⁰ To be entirely transparent, the most significant concern I have had in these matters relate more to Kelly's inappropriate courtroom demeanor during a number of his appearances rather than any feeling of bias or partiality toward him or any other party. He has sometimes displayed scorn toward other parties, counsel and the Court, has spoken out of turn, and been evasive or nonresponsive to valid questioning. Perhaps he fails to realize that demeanor is one of the criteria used for determining credibility. Even though the Court would prefer that Kelly conduct himself more appropriately that does not mean that I hold any ill will toward him.

decide the remaining issues in dispute solely on the merits and that recusal at this juncture is not appropriate.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 9th day of March, 2021, for the reasons set forth in the attached Memorandum Opinion, the Petition For Recusal of Trial Judge filed by Defendant, Kelly S. Retowsky, on January 29, 2021 is denied.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary or of administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

FIRST PUBLICATION**ESTATE OF BARRY J. ARGENTO, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Administratrix: Claire M. Roderique, 1941 B Buchanan Valley Road, Orrtanna, PA 17353

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF GLENN E. BEAMER, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Attorney: Anthony S. Posa, Esq., 2500 Brooktree Road, Suite 301, Wexford, PA 15090

ESTATE OF NAOMA L. CUMMINGS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Administrators: Dalonda E. Miller, 20 Park Avenue, Gettysburg, PA 17325; Floyd Cummings, 1585 Highland Avenue Road, Gettysburg, PA 17325

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

ESTATE OF WILLA A. DAMUTH, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Kathy S. Muller, 175 St. John's Road, Littlestown, PA 17340

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CAROLINE S. MEYERS, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Susan M. Dellinger, 5 Louise Trail, Fairfield, PA 17320

Attorney: Bernard A. Yannetti, Jr., Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WENDELL SHANK a/k/a WENDELL LEE SHANK, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Administrator: Stephen Shank, 28 Ski Run Trail, Fairfield, PA 17320

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF MARY TRUMBOWER CROCKETT, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executor: William J. Crockett, 1400 Baritone Court, Vienna, VA 22182

ESTATE OF CHARLES EDWARD FITZWATER, JR. a/k/a CHARLES E. FITZWATER, JR., DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: George Flook, Jr., c/o Barbara Entwistle, Esq., Entwistle & Roberts, PC, 37 West Middle Street, Gettysburg, PA 17325

Attorney: Barbara Entwistle, Esq., Entwistle & Roberts, PC, 37 West Middle Street, Gettysburg, PA 17325

ESTATE OF ARLENE V. MILLER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: Kaye A. Doss, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF EUGENE P. MILLER a/k/a EUGENE PAUL MILLER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Robert Lee Miller Sr., 419 McCosh Street, Hanover, PA 17331; Ann B. Miller, 419 McCosh Street, Hanover, PA 17331

Attorney: Amy E.W. Ehrhart, Esq., 118 Carlisle Street, Suite 202, Hanover, PA 17331

ESTATE OF MARIE L. REDDING, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Co-Executors: Sandra Heisey, 222 Mackin Avenue, Lancaster, PA 17602; Samuel Redding, 265 Benders Church Road, Biglerville, PA 17307; Anthony Redding, 198 Guernsey Road, Biglerville, PA 17307

Attorney: Adam D. Boyer, Esq., Barley Snyder, LLP, 123 Baltimore Street, Suite 101, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF DAVID M. KAAS, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Douglas A. Kaas, c/o Jessica Fisher Greene, Esq., Walters & Galloway, PLLC, 54 East Main Street, Mechanicsburg, PA 17055

Attorney: Jessica Fisher Greene, Esq., Walters & Galloway, PLLC, 54 East Main Street, Mechanicsburg, PA 17055

ESTATE OF DELLA V. LAMER a/k/a DELLA V. SNYDER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executors: Donald L. Snyder, 170 Honda Road, Littlestown, PA 17340; Kay R. Stuffle, 90 Kensington Drive, Littlestown, PA 17340

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF DONALD E. NOACK a/k/a DONALD ELGIN NOACK, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Co-Executrices: Sandra N. Monto, 11 Revere Court, Littlestown, PA 17340; Nancy Noack Beth, 17509 Cherokee Lane, Olney, MD 20832

Attorney: Amy E.W. Ehrhart, Esq., 118 Carlisle Street, Suite 202, Hanover, PA 17331

ESTATE OF G. RICHARD REAVER, a/k/a GLENN RICHARD REAVER, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executors: Donna L. Ohler, 39 Park Avenue, Littlestown, PA 17340; David R. Reaver, 775 Marsh Creek Road, Gettysburg, PA 17325

Attorney: Puhl & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD N. REDDING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Richard T. Redding, 1001 Herr's Ridge Road, Gettysburg, PA 17325; Barbara A. Klunk, 50 Shady Lane, Hanover, PA 17331; Daniel J. Redding, 21 Ivy Lane, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION CONTINUED

ESTATE OF TYNIA T. RICHARDSON
a/k/a TYNIA TREMBOW RICHARDSON,
DEC'D

Late of Hamiltonban Township,
Adams County, Pennsylvania

Co-Executors: Edward Todd
Richardson, 13154 Welty Road,
Waynesboro, PA 17268; Christopher
Paul Richardson, 1037 Orrtanna
Road, Orrtanna, PA 17353; Eric
Steven Richardson, 13189 Seneca
Drive, Waynesboro, PA 17268

Attorney: Adam D. Boyer, Esq., Barley
Snyder, LLP, 123 Baltimore Street,
Suite 101, Gettysburg, PA 17325

ESTATE OF GRACE R. RUPPERT,
DEC'D

Late of Berwick Township, Adams
County, Pennsylvania

Executor: Brian L. Ruppert, c/o
Sharon E. Myers, Esq., CGA Law
Firm, PC, P.O. Box 606, East Berlin,
PA 17316

Attorney: Sharon E. Myers, Esq., CGA
Law Firm, PC, P.O. Box 606, East
Berlin, PA 17316

ESTATE OF BARBARA JEAN SANDERS,
DEC'D

Late of Washington County, Maryland
Executor: David A. Sanders, 16601
Tammany Manor Road, Williamsport,
MD 21795

Attorney: Lawrence R. Rife, IV, Esq.,
Hoskinson, Wenger & Rife, 147 East
Washington Street, Chambersburg,
PA 17201

ESTATE OF BENJAMIN WEAVER a/k/a
BENJAMIN N. WEAVER, SR., DEC'D

Late of Menallen Township, Adams
County, Pennsylvania

Administrator CTA: William C. Hondos,
c/o Scott L. Kelley, Esq., Barley
Snyder, LLP, 14 Center Square,
Hanover, PA 17331

Attorney: Scott L. Kelley, Esq., Barley
Snyder, LLP, 14 Center Square,
Hanover, PA 17331



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