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IN THIS ISSUE

ESTATE OF BLAKE S. WALKER, DECEASED



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS
OF ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW

COURT OF COMMON PLEAS
CIVIL DIVISION
ADAMS COUNTY
NO. 14-S-814

WELLS FARGO BANK, N.A., Plaintiff
vs.

VICTOR ROSENTHAL, in his capacity as
Heir of MARI L. RABENSTINE,
Deceased; TIMOTHY C. RABENSTINE,
in his capacity as Heir of MARI L.
RABENSTINE, Deceased; UNKNOWN
HEIRS, SUCCESSORS, ASSIGNS, AND
ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT,
TITLE OR INTEREST FROM OR UNDER
MARI L. RABENSTINE, DECEASED,
Defendants

NOTICE

To UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS,
OR ASSOCIATIONS CLAIMING RIGHT,
TITLE OR INTEREST FROM OR UNDER
MARI L. RABENSTINE, DECEASED

You are hereby notified that on July 1,
2014, Plaintiff, WELLS FARGO BANK,
N.A., filed a Mortgage Foreclosure
Complaint endorsed with a Notice to
Defend, against you in the Court of
Common Pleas of ADAMS County
Pennsylvania, docketed to No. 14-S-
814. Wherein Plaintiff seeks to foreclose
on the mortgage secured on your prop-
erty located at 96 BILLERBECK STREET,
NEW OXFORD, PA 17350-9387 where-
upon your property would be sold by the
Sheriff of ADAMS County.

You are hereby notified to plead to the
above referenced Complaint on or
before 20 days from the date of this
publication or a Judgment will be
entered against you.

NOTICE

If you wish to defend, you must enter
a written appearance personally or by
attorney and file your defenses or objec-
tions in writing with the court. You are
warned that if you fail to do so the case

may proceed without you and a judg-
ment may be entered against you with-
out 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.

Notice to Defend:

Office of the Court Administrator
Adams County Courthouse
Gettysburg, PA 17325
717-337-9846

MidPenn Legal Services, Inc.
128 Breckenridge Street
Gettysburg, PA 17325
717-337-9846

10/3

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that the
Board of Directors of LOYAL PATIENTS,
INC. is winding up and settling affairs of
the Corporation for the purpose of filing
Articles of Dissolution with the
Department of State of the
Commonwealth of Pennsylvania, at
Harrisburg, PA, pursuant to the
Corporation Law of the Commonwealth
of Pennsylvania, 1988, December 21,
PL. 1444, No. 177, and its amendments
and supplements.

Loyal Patients, Inc.
c/o Hursh & Hursh, P.C.
60 North Union Street
Middletown, PA 17057-1429

10/3

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on
August 27, 2014, a Petition for Name
Change was filed in the Court of
Common Pleas of Adams County,
Pennsylvania, requesting a Decree to
change the name of the Petitioner, Aaron
Michael Anderson, to Aaron David
Amato.

The Court has affixed the 7th day of
November, 2014 at 8:30 a.m. in
Courtroom No. 4, Third Floor of the
Adams County Courthouse, as the time
and place for the hearing of said
Petition, when and where all persons
interested may appear and show cause,
if any they have, why the request of the
Petitioner should not be granted.

10/3

ESTATE OF BLAKE S. WALKER, DECEASED

1. A constructive trust arises where a person who holds title to property is subject to an equitable duty to convey it to another on the ground that he would be unjustly enriched if he were permitted to retain it.

2. A constructive trust is the formula through which the conscience of equity finds expression. When property has been acquired in such circumstances that the holder of the legal title may not in good conscience retain the beneficial interest, equity converts him into a trustee.

3. There is no rigid standard for determining whether the facts of a particular case require a court to impose a constructive trust.

4. The controlling factor in determining whether a constructive trust should be imposed is whether it is necessary to prevent unjust enrichment...Such a constructive trust may be imposed even though the acquisition of property was not wrongful and the defendants' intention was not malign...

5. In Pennsylvania each court of common pleas, through its orphans' court division, has mandatory jurisdiction over decedents' estates. Thus, it follows that this Court has the right to exercise its equitable powers, if appropriate, in determining the proper distribution of the annuity payments at issue.

6. A disabled person with substantial assets may maintain eligibility for Medical Assistance benefits if he transfers all of his assets into a special needs trust with the caveat that Department of Public Welfare (DPW) would recover all of those assets remaining in the trust upon the beneficiary's death.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA, ORPHANS' COURT OC-22-2012, ESTATE OF BLAKE S. WALKER, DECEASED

Samuel E. Teeter, Esq., for Estate
Nicholas M. Orloff, Esq., for DPW
Kuhn, J., August 12, 2014

OPINION

Before the Court for disposition is the Amended Objection To Petition For Adjudication/Statement of Proposed Distribution filed by Pennsylvania Department of Public Welfare (DPW). For reasons set forth herein, said petition is granted.

PROCEDURAL BACKGROUND

1. On March 15, 2012, David S. Walker, Administrator of the Estate of Blake Scott Walker, filed the First and Final Account in the estate as well as a Statement of Proposed Distribution.
2. Estate assets consisted of certain post-death monthly annuity distributions.

3. The Estate proposed distribution of the net estate to David S. Walker, Decedent's father.
4. On May 3, 2012, DPW filed its Objection claiming entitlement to the post-death annuity payments.
5. On June 25, 2012, DPW filed its Amended Objection.
6. No hearing has been conducted. Instead, the parties have submitted a Joint Stipulation of Facts.¹

FACTUAL BACKGROUND²

1. Decedent was born on November 30, 1993.³
2. Decedent was severely and permanently injured during birth and required total assistance throughout his lifetime for all his activities of daily living.⁴
3. Decedent qualified for and received medical assistance (MA) from DPW from 1994 through 2003 because of such injuries and his resulting disability.⁵
4. A medical malpractice lawsuit was filed on Decedent's behalf in the Court of Common Pleas of Franklin County, Pennsylvania at docket No. 1995-523. Therein, DPW asserted a casualty lien in the amount of \$1,344,502.17 against any settlement.⁶
5. On August 19, 2003, almost 10 years after Decedent's birth, his father, David S. Walker, individually and as parent of Decedent, executed a Release to settle the medical malpractice action. As part of the Release, an arrangement was to be made
"for a Qualified Assignment within the meaning of
Sections 104(a)(2) and 130(c) of the Internal
Revenue Code of 1986, as amended on behalf of
Blake Walker to provide yearly income of \$36,468

¹ The parties also submitted briefs. After some analysis, the Court shared with the parties its initial unofficial opinion and offered them the opportunity to submit supplemental briefs, which were, in fact, subsequently received. They did not, however, answer all the concerns raised by the Court.

² The footnotes that follow in the Factual Background indicating "Stip" and "Exhibit" refer to paragraphs and exhibits set forth in the Joint Stipulation of Facts.

³ Stip. 1.

⁴ Stip. 2.

⁵ Stip. 3.

⁶ Stip. 4.

... increasing at 3% per year compounded annually and payable for 20 years certain and life. If said Blake Walker dies within the 20-year period, the remaining payments will be made to the beneficiary or beneficiaries until the 20-year period has expired. These periodic payments shall be payable to the Guardian of Blake Walker until he reaches the age of majority . . . The Assignee shall be the sole owner of the annuity and shall retain all incidence of ownership.”⁷ (emphasis added).

6. On August 20, 2003, the Franklin County Court entered an Order (“the Settlement Order”)⁸ approving a Petition For Approval of Minor’s Settlement & Distribution of Settlement Funds for a total structured settlement of \$2,500,000. The Order also provided, inter alia, that:

- a. Pursuant to Pa. R.C.P. 2039(b)(4) . . . the corporate fiduciary authorized to do business in the Commonwealth of Pennsylvania selected by David S. Walker is authorized to execute the Blake Walker Special Needs Trust (SNT) Declaration in the form of the Declaration attached to the Petition as Exhibit “B” (emphasis added);
- b. The corporate trustee of the SNT was to receive \$229,387.40;⁹
- c. The DPW was to receive \$380,681.23 on its claim of \$1,343,502.17; and
- d. The sum of \$800,000 was to be used to purchase an annuity from American General Life Insurance Company (AGLIC) that would provide monthly payments of \$3,039 guaranteed for 20 years beginning on February 1, 2004 and continuing for life, with payments increasing 3% compounded annually and payable “to the duly appointed trustee of the Blake Walker Special Needs and its successors.”

⁷ The Release is sealed and may not be opened except upon Order of Court.

⁸ See Exhibit 1.

⁹ The sum of \$200,000 was to be paid by one insurance carrier, and the sum of \$29,387.40 was to be paid by another carrier.

7. On or about September 23, 2003, the medical malpractice defendant's counsel issued a check payable to the SNT in the amount of \$200,000 in compliance with the Settlement Order.¹⁰
8. On or about December 11, 2003, Sterling Financial Trust Company executed the Blake Walker Special Needs Trust Declaration in its capacity as the duly appointed trustee (Trustee) of the SNT.¹¹
9. The Trust Declaration provided that upon termination of the SNT, either by court order or Decedent's death, the trust was to pay all valid DPW claims and any balance would be paid to Decedent's estate. The Declaration also provided that a copy thereof was to be provided to DPW.¹²
10. On or about December 30, 2003, a Single Premium Immediate Annuity Contract, Contract No. 414152 ("Annuity"), was purchased from AGLIC for the sum of \$800,000 pursuant to the terms of the Release and as required by the Settlement Order.¹³
11. The Annuity Application indicated, in descending order, that the "Measuring Life" was "Blake S. Walker," the "Beneficiary" was "the estate of Blake S. Walker," the "Payee (if Other Than measuring Life)" was "same as above", and the "Owner of Annuity" was "American General Annuity Service Corporation".¹⁴
12. The annuity provided that the monthly benefit was to be guaranteed for a period of 20 years with the first payment due February 1, 2004. The initial monthly amount was set at \$3,039.92,¹⁵ but that amount was to increase each year by 3%.¹⁶

¹⁰ Stip. 8.

¹¹ Stip. 8.

¹² Stip. 7.

¹³ Stip. 12 and Exhibit 3.

¹⁴ See Exhibit 3.

¹⁵ How the monthly payment increased from \$3,039 as set forth in the Release and the August 20, 2003 Order to a monthly payment of \$3,039.92 in the Annuity has not been explained. However, for the purpose of later calculations the monthly figure in the Annuity will be used.

¹⁶ See Exhibit 3.

13. Page 3 of the annuity contained a provision that “IF THE ANNUITANT DIES PRIOR TO PAYMENT OF ALL INSTALLMENTS DURING THE GUARANTEED PERIOD, ANY REMAINING PAYMENT DUE SHALL BE PAID IN ACCORDANCE WITH THE SETTLEMENT AGREEMENT, AS THEY BECOME DUE.” The term “SETTLEMENT AGREEMENT” is not defined in the Annuity.¹⁷
14. Page 5 of the annuity contained a provision that “The Beneficiary, as named in the application or later changed by the Owner, will receive, subject to the terms of this policy, any payments which are due after the death of the Measuring Life . . .” Stated otherwise, the Annuity provided that the Decedent’s Estate would receive the guaranteed monthly annuity payments due after Decedent’s death.¹⁸
15. On or about December 31, 2003, the medical malpractice defendant’s counsel issued a check payable to the SNT in the amount of \$29,387.40 in compliance with the Settlement Order.¹⁹
16. The aforesaid initial payments into the SNT in the amount of \$229,387.40, as well as the monthly annuity payments made during Decedent’s lifetime to the SNT, were received, managed and distributed by the Trustee and successor Trustee of the SNT in accordance with the terms of the SNT Declaration.²⁰
17. DPW received copies of the executed SNT Declaration and notice of the subsequent Franklin County Orphans’ Court proceedings concerning distributions made from the SNT before its termination as hereinafter indicated.²¹
18. On or about January 4, 2004, DPW received the aforementioned \$380,681.34.²²
19. All monthly annuity payments issued from the annuity during Decedent’s lifetime were made to Trustee and its successor by merger, PNC Bank, N.A.²³

¹⁷ See Exhibit 3.

¹⁸ On or about January 4, 2004, DPW received the aforementioned \$380,681.34.

¹⁹ Stip. 8.

²⁰ Stip. 9.

²¹ Stip. 10.

²² Stip. 6.

²³ Stip. 14.

20. On February 25, 2011, the Decedent passed away.²⁴
21. On October 26, 2011, PNC Bank, N.A., as the successor Trustee of the SNT, filed a Petition for Adjudication/Statement of Proposed Distribution Pursuant to Pa. O.C. Rule 6.9 and a First and Final Account (“SNT Accounting”) with the Clerk of Orphans’ Court in Franklin County. Attached to the SNT Accounting was a copy of the annuity.²⁵
22. On or about October 26, 2011, DPW received a copy of a Notice of Audit and of the SNT Accounting from the successor Trustee of the SNT.²⁶
23. In the SNT Accounting, the successor Trustee acknowledged receipt of notice of an outstanding claim against the SNT in the amount of \$1,359,704.15 from DPW dated March 9, 2011, for the MA provided to the Decedent after the Settlement Order.²⁷
24. There being no objections or exceptions filed to the SNT Accounting, on or about December 1, 2011, the Franklin County Orphans’ Court approved the SNT Accounting, which provided for 100% of the balance remaining in the SNT to be distributed to DPW as required by the SNT since the amount of the MA claim of DPW exceeded the remaining balance in the SNT.²⁸
25. On or about January 3, 2012, the successor Trustee distributed the balance in the SNT in the amount of \$430,643.22 to DPW and thereafter the SNT terminated.²⁹
26. From March 2011 to the present time, all monthly annuity payments have been made directly to Decedent’s Estate as the designated Beneficiary of the annuity.³⁰

²⁴ Stip. 15.

²⁵ Stip. 16 and 18.

²⁶ Stip. 17.

²⁷ Stip. 19.

²⁸ Stip. 20 and 21.

²⁹ Stip. 22.

³⁰ Stip. 23.

27. After adjusting for the \$430,643.22 payment, which DPW received from the SNT, the \$929,060.93 balance of the MA claim for which DPW now seeks reimbursement still exceeds the balance of guaranteed payments under the terms of the annuity.³¹

Continued to next issue (10/10/2014)

³¹ Stip. 24.

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 MARY JANE BOLLINGER, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executor: Douglas C. Kump, 2 McGinley Drive, Fairfield, PA 17320

Attorney: Chester G. Schultz, Esq., 145 Baltimore Street, Gettysburg, PA 17325

ESTATE OF DAVID C. BREAM a/k/a DAVID CLAIR BREAM, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Treva E. Bream, 30 Ridgewood Drive, Gettysburg, PA 17325

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

ESTATE OF PATRICIA H. GLADFELTER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Sharon M. Gladfelter, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, 135 North George Street, York, PA 17401

ESTATE OF KENNETH JOSEPH GLAESER a/k/a KENNETH J. GLAESER a/k/a KEN GLAESER a/k/a KENNY GLAESER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Administratrix: Jessica M. Glaeser, 630 Locust Lane, Littlestown, PA 17340

Attorney: D.J. Hart, Esq., Guthrie, Nonemaker, Yingst & Hart, LLP, 40 York Street, Hanover, PA 17331

ESTATE OF HATTIE LOUISE HOFFACKER a/k/a LOUISE HOFFACKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Henry J. Hoffacker, III, 9 Rebecca Lane, Hanover, PA 17331; Ralph J.S. Hoffacker, II, 232 Hershey Heights Road, Hanover, PA 17331

Attorney: John M. Crabbs, Esq., 202 Broadway, Hanover, PA 17331

ESTATE OF JANET E. HOSTETTER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Betty L. Guise and Dennis T. Guise, 2312 Forest Hills Drive, Harrisburg, PA 17112

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD E. SCHULTZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Leigh A. Braden, c/o Reilly, Wolfson, Sheffey, Schrum and Lunderg, LLP, 1601 Cornwall Road, Lebanon, PA 17042

Attorney: Reilly, Wolfson, Sheffey, Schrum and Lunderg, LLP, 1601 Cornwall Road, Lebanon, PA 17042

ESTATE OF BERNARD L. SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Chad E. Owings, 1135 Pine Grove Road, Hanover, PA 17331

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

ESTATE OF MYRLE M. SNYDER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executors: Rebecca A. Ledford, 2160 Hanover Road, Lot 24, Gettysburg, PA 17325; Bonnie J. Mummert, 12860 Old Route 16, Waynesboro, PA 17268

Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF JAMES C. BRADY, DEC'D**

Late of the Borough of McSherrytown, Adams County, Pennsylvania

Executrix: Pamela Grissinger, 523 ½ Frederick Street, Hanover, PA 17331

Attorney: Stonesifer and Kelley, P.C., 209 Broadway, Hanover, PA 17331

ESTATE OF CHARLES J. DOVE, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executors: Charles Galen Dove, P.O. Box 132, Franklintown, PA 17323; Glenda Dove, 92 Blackberry School Road, York Springs, PA 17372

Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF BETTY A. HEISEY a/k/a BETTY ARLEEN HEISEY, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Co-Administrators: Jeffrey L. Heisey and Terri A. Miller, c/o Roger B. Irwin, Esq., Salzmann Hughes, P.C., 354 Alexander Spring Road, Suite 1, Carlisle, PA 17015

Attorney: Roger B. Irwin, Esq., Salzmann Hughes, P.C., 354 Alexander Spring Road, Suite 1, Carlisle, PA 17015

ESTATE OF VIVIAN J. RAFFENSPERGER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Richard D. Raffensperger, 322 Dale Road, Biglerville, PA 17307; Robin R. (Raffensperger) Stoops, 762 Winwood Drive, Saint Thomas, PA 17252

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325-2311

ESTATE OF HELEN REXROTH, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: ACNB Bank, formerly Adams County National Bank, P.O. Box 3129, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325-2311

ESTATE OF L. ROBERT SNYDER, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Personal Representative: Steven L. Snyder, 589 East King Street, Littlestown, PA 17340

Attorney: Phillips & Phillips, 101 West Middle Street, Gettysburg, PA 17325

SECOND PUBLICATION (CONTINUED)

ESTATE OF RUTH E. STOVER a/k/a
RUTH STOVER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Administrator: Edward R. Stover, 1199
Oxford Road, New Oxford, PA
17350

Attorney: Crabbs & Crabbs, 202
Broadway, Hanover, PA 17331

ESTATE OF THOMAS E. TITUS, DEC'D

Late of Mount Joy Township, Adams
County, Pennsylvania

Lisa M. Titus, c/o Barbara Jo
Entwistle, Esq., Entwistle & Roberts,
37 West Middle Street, Gettysburg,
PA 17325

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

THIRD PUBLICATION

ESTATE OF DONALD EDWARD
DOERSOM, DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Personal Representative: David Eric
Doersom, 322 Boyds Hollow Road,
Biglerville, PA 17307

Attorney: Phillips & Phillips, 101 West
Middle Street, Gettysburg, PA
17325

ESTATE OF DEAN S. HOOVER, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Personal Representative: Dale S.
Hoover, 101 Cheltenham Road,
Newark, DE 19711

ESTATE OF CURTIS J. KLUNK, DEC'D

Late of Conewago Township, Adams
County, Pennsylvania

Executor: Deborah A. Schnitker, c/o
Donald W. Dorr, Esq., 846
Broadway, Hanover, PA 17331

Attorney: Donald W. Dorr, Esq., 846
Broadway, Hanover, PA 17331

ESTATE OF FRED L. LEAS, DEC'D

Late of Reading Township, Adams
County, Pennsylvania

Co-Executors: Bennett L. Leas and
Michael E. Leas, c/o Sharon E.
Myers, Esq., CGA Law Firm, PC,
135 North George Street, York, PA
17401

Attorney: Sharon E. Myers, Esq., CGA
Law Firm, PC, 135 North George
Street, York, PA 17401

ESTATE OF FRANKLIN O. LOVELAND
III, DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Executrix: Christine A. Loveland, 301
Oak Lane, Gettysburg, PA 17325

Attorney: Elyse E. Rogers, Esq.,
Saidis, Sullivan & Rogers, 635 North
12th Street, Suite 400, Lemoyne, PA
17043