

Adams County Legal Journal

Vol. 62

January 22, 2021

No. 38, pp. 47-51

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published weekly by Adams County Bar Association, Edward G. Puhl, Esq., Editor and Business Manager.

Business Office – 117 BALTIMORE STREET, ROOM 305, GETTYSBURG, PA 17325-2313. Telephone: (717) 334-1553

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CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on September 8, 2020, 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 Petitioner Roy McGill III to Roy Collins. The Court has affixed March 12, 2021 at 10:00 am in courtroom #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 Petition should not be granted.

1/22

NOTICE TO CREDITORS AND
CLAIMANTS OF
TIGER LILY CHARITIES

Please take note that Tiger Lily Charities, a Pennsylvania non-profit corporation, is in the process of voluntarily dissolving. The Board of Directors is now winding up and settling the affairs of the Corporation. Written claims against the Corporation may be presented by a notice containing a description of the claim and the amount claimed, and addressing the notice as follows: Tiger Lily Charities Dissolution Claims, 34 West Locust Lane, New Oxford, Pennsylvania 17350.

The date by which all claims must be received is March 14, 2021.

1/22

JANE H. PATRONO VS. MELINDA HAUSER DAVIS
AND HAUSER FAMILY FARMS, LLC

1. In this mandamus action, Patrono, who claims to be an owner of a 33-1/3 percent membership interest in HFF, seeks an order directing HFF and its managing member, Davis, to provide her certain financial information and documents related to HFF's operation. Specifically, Patrono seeks permission to examine "the books, records and attorney engagement letters" of HFF. Patrono claims the right of access to this information pursuant to the Pennsylvania Uniform Limited Liability Company Act of 2016 ("Act"), 15 Pa. C.S.A. §8811 et seq.

2. Patrono further argues that since the basic facts in the Complaint are not at issue, summary judgment is appropriate.

3. Noting that discovery has not been completed, the Defendants question the extent of Patrono's ownership interest in HFF in light of the numerous litigations pending in three separate counties involving similarly related parties and interests. Defendants further dispute whether Patrono has actually made formal request for the documents as required by the Act and whether Patrono's interest in the documents is related to an articulated purpose related to her membership interest.

4. Patrono's motion is premature as there appears to be a number of factual issues which remain outstanding.

5. Mandamus is an extraordinary common-law writ, the purpose of which is not to establish legal rights but rather to enforce those rights which are already established. Although mandamus is a legal remedy, the granting of the writ is governed by equitable principles.

6. It is clear from the numerous contentious litigations surrounding the parties' various relationships that this mandamus action is not the only means by which Patrono may achieve a remedy. Each of the related litigations carries with it the ability to conduct significant discovery including the right to require the production of documents. Pa. R. Civ. P. 4009.1. Thus, there is a substantial likelihood that discovery proceedings in the relations litigations will ultimately flush out Patrono's right to the documents at issue.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, 2019-SU-887, JANE H. PATRONO VS.
MELINDA HAUSER DAVIS AND HAUSER FAMILY FARMS,
LLC

Alan K. Patrono, Esq., Attorney for Plaintiff
James J. Kutz, Esq., Brian W. Bisignani, Esq., and John W.
Croumer, Esq., Attorneys for Defendants
George, P. J., December 15, 2020

OPINION

Before the Court is a Motion for Summary Judgment filed by Jane H. Patrono (“Patrono”) against Melinda Hauser Davis (“Davis”) and Hauser Family Farms, LLC (“HFF”). For the reasons set forth below, the Motion for Summary Judgment is denied.

In this mandamus action, Patrono, who claims to be an owner of a 33-1/3 percent membership interest in HFF, seeks an order directing HFF and its managing member, Davis, to provide her certain financial information and documents related to HFF’s operation. Specifically, Patrono seeks permission to examine “the books, records and attorney engagement letters” of HFF. Patrono claims the right of access to this information pursuant to the Pennsylvania Uniform Limited Liability Company Act of 2016 (“Act”), 15 Pa. C.S.A. § 8811 et seq. Patrono argues that pursuant to the Act, a member of a manager-managed limited liability company¹, upon request, is entitled to inspect and copy information regarding the activities, affairs, and financial condition of the company. Patrono further argues that since the basic facts in the Complaint are not at issue, summary judgment is appropriate.

Davis and HFF claim summary judgment is inappropriate as significant questions of fact remain. Noting that discovery has not been completed, the Defendants question the extent of Patrono’s ownership interest in HFF in light of the numerous litigations pending in three separate counties involving similarly related parties and interests. Defendants further dispute whether Patrono has actually made formal request for the documents as required by the Act and whether Patrono’s interest in the documents is related to an articulated purpose related to her membership interest.

The standard for granting summary judgment in Pennsylvania is well known. “Summary judgment is appropriate where, after the close of the pleadings, ‘there is no genuine issue of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report.’” *Scarnati v. Wolf*, 173 A.3d 1110, 1118 (Pa. 2017). “A fact is considered material if its resolution could affect the outcome of the case under the

¹ There is no dispute that HFF is a manager-managed limited liability company pursuant to the Act and that Davis is the managing member.

governing law.” *Hospital & Healthsystem Assoc. of Pa. v. Cmwlth.*, 77 A.3d 587, 602 (Pa. 2013). Where material issues of the facts exist, the motion is properly denied. *Sherman v. Kaiser*, 664 A.2d 221, 225 (Pa. Cmwlth. 1995).²

Patrono’s motion is premature as there appears a number of factual issues which remain outstanding. In order for Patrono to be successful, the statutory section under which she seeks judgment requires a lack of dispute as to: (1) Patrono’s status as a member; (2) the information is being sought for a purpose reasonably related to the member’s interest as a member; (3) the existence of a demand for information made by the member which demand described with reasonable particularity the information sought and the purpose for seeking the information; and (4) the information sought is directly connected to the member’s purpose. 15 Pa. C.S.A. § 8850(b)(2) (i-iii). It is apparent from the pleadings that each of these elements remain in dispute.

Although Defendants acknowledge Patrono, at one time, possessed an ownership interest in the corporate entity, they argue that Patrono’s recent actions support disassociation as a member of the entity. *See generally* 15 Pa. C.S.A. § 8861. This claim of factual dispute has merit as Patrono’s involvement in numerous litigations related to her association with HFF certainly raises questions as to her status as a member. Additionally, the numerous pending litigations create a factual issue as to whether the information being sought is reasonably related to her membership interest or for some other purpose.

² Although styled as a motion for summary judgment pursuant to Pa. R.C.P. 1035.2, Patrono’s pleading is more akin to a motion for judgment on the pleadings pursuant to Pa. R.C.P. 1034. Generally speaking, a motion for summary relief is supported by the pleadings, answers to interrogatories, admissions, affidavits, and other documents of record. *See Meggett v. Pa. Dept. of Corrections*, 892 A.2d 872, 879 N. 13 (Pa. Cmwlth. 2006); Pa. R.C.P. 1035.1 (identifying contents of the record for purposes of acting on a motion for summary judgment). In support of the current motion, Patrono cites solely to the pleadings and a notarized affidavit which she herself executed.

Notably, Patrono is not seeking a remedy under peremptory judgment in a mandamus action pursuant to Pa. R. Civ. P. 1098. The primary distinction between a motion for peremptory judgment and a motion for summary judgment is the former empowers the court to grant judgment even before the defending party has an opportunity to raise defenses. *See A.J. Aberman, Inc. v. City of New Kensington*, 105 A.2d 586, 591 (Pa. 1954).

Defendants further correctly question whether the request made was actually made by Patrono. Documents attached to the Complaint reflect the request being made through an email which identifies it as being sent by a non-party individual. Notably, the email which purports to be the request at issue lacks any indication of the purpose for which the information is being sought contrary to the requirements of the Act. These factual gaps make it clear that a number of material issues remain unresolved which precludes summary judgment.

Patrono's attempt to salvage the motion through an affidavit from Patrono is futile. The purpose of a summary judgment motion is to avoid a useless trial; it is not to be used as a basis to obtain trial by affidavits or depositions. Under the rule first enunciated in *Nanty-Glo v. American Surety Co.*, 163 A. 523 (1932), a "party moving for summary judgment may not rely solely upon its own testimony or affidavits or depositions, or those of its witnesses, to establish the non-existence of genuine issues of material fact." *Dudley v. USX Corp.*, 606 A.2d 916, 918 (Pa. Super. 1992), appeal denied, 616 A.2d 985 (Pa. 1992). "Testimonial affidavits of the moving party or his witnesses, not documentary, even if uncontradicted, will not afford sufficient basis for the entry of summary judgment, since the credibility of the testimony is still a matter for the [factfinder]." *Penn Center House, Inc. v. Hoffman*, 553 A.2d 900, 903 (Pa. 1989). Granting summary judgment on the sole basis of Patrono's affidavit would not only violate *Nanty-Glo* but would improperly usurp the role of the factfinder by resolving material issues of credibility.

Patrono's Motion for Summary Judgment also fails for a second reason. As mentioned, the litigation at issue is an action in mandamus. Mandamus is an extraordinary common-law writ, the purpose of which is not to establish legal rights but rather to enforce those rights which are already established. *Arroyo v. Pappert*, 876 A.2d 1073, 1075 n.4 (Pa. Cmwlth. 2005). Although mandamus is a legal remedy, the granting of a writ is governed by equitable principles. *Pa. Dental Ass'n v. Com. Ins. Dept.*, 516 A.2d 647, 652 (Pa. 1986). A writ of mandamus should only be issued where there is: (1) a clear legal right in the plaintiff to performance; (2) a corresponding duty in the defendant to perform; and (3) a lack of any other appropriate and adequate remedy. *Delaware River Port Auth. v. Thornburgh*, 493 A.2d 1351, 1355 (Pa. 1985). A court may properly decline to

grant a writ if the issuance will not promote substantial justice but rather might aid probable injustice or likely create a disruption. *See generally Carroll Twp. Auth. v. Municipal Auth. of City of Monongahela*, 603 A.2d 243, 248 (Pa. Cmwlth. 1992).

It is clear from the numerous contentious litigations surrounding the parties' various relationships that this mandamus action is not the only means by which Patrono may achieve a remedy. Each of the related litigations carries with it the ability to conduct significant discovery including the right to require the production of documents. Pa. R. Civ. P. 4009.1. Thus, there is a substantial likelihood that discovery proceedings in the related litigations will ultimately flush out Patrono's right to the documents at issue. Moreover, issuance of a writ in the current litigation is not only duplicative of discovery rights in the other cases but also presents an increased likelihood of producing contrary legal rulings in the various litigations. In light of this uncertainty, and until information is presented to the factfinder which addresses these uncertainties, this Court will deny the motion.³

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 15th day of December, 2020, Plaintiff's Motion for Summary Judgment is denied.

³ The issuance of a writ of mandamus is committed to the sound discretion of a court of original jurisdiction. *Rizzo v. Schmanek*, 439 A.2d 1296, 1297 (Pa. Cmwlth. 1981).

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 ALBERT R. BOLLINGER, DEC'D**

Late of Butler Township, Adams County, Pennsylvania

Executrix: Ilda Ramirez, 15 West Point Road, Aspers, PA 17304

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

ESTATE OF LUCILLE J. BROWN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Marian M. Cadden, c/o Jennifer M. Stetter, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

Attorney: Jennifer M. Stetter, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

ESTATE OF FRANCIS I. HALL, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Daniel F. Hall, 2384 Buchanan Valley Road, Orrtanna, PA 17353

Attorney: Robert E. Campbell, Esq., Salzmans Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF JANET BETH HOLLENSHADE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Michele Christine Watson, c/o Scott J. Strausbaugh, Esq., Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, PA 17331

Attorney: Scott J. Strausbaugh, Esq., Strausbaugh Law, PLLC, 1201 West Elm Avenue, Suite #2, Hanover, PA 17331

ESTATE OF VIOLA L. LEGORE, DEC'D

Late of the Borough of Bonneauville, Adams County, Pennsylvania

Executor: Robert A. Legore, 561 Benders Church Road, Biglerville, PA 17307

Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF LEWIS P. MILLER, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: Ruthanna T. Miller, c/o Wm. D. Schrack III, Esq., Benn Law Firm, 124 West Harrisburg Street, Dillsburg, PA 17019-1268

Attorney: Wm. D. Schrack III, Esq., Benn Law Firm, 124 West Harrisburg Street, Dillsburg, PA 17019-1268

ESTATE OF EDNA R. SHOWERS, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Kim A. McDannell a/k/a Kimberly A. Guise, 172 Gordon Avenue, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., Salzmans Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION**ESTATE OF LAUREN N. DOUGLASS, JR., DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Adele C. Douglass, 967 Bridgewater Drive, New Oxford, PA 17350

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

ESTATE OF THOMAS NELSON HITCHCOCK, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Executor: Barbara Ann Shorb, c/o Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover PA 17331

Attorney: Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover PA 17331

ESTATE OF FANNIE E. RIDINGER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Barbara A. Ridinger, 743 West King Street, Littlestown, PA 17340

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

ESTATE OF MILDRED M. SAMPSON a/k/a MILDRED M. MEYERS SAMPSON, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: Doug Sampson, 5499 Carletans Lane, The Plains, VA 20198

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

TRUST NOTICE

The undersigned First Successor Trustees under the Vernon Sarro Family Trust dated September 21, 2015, hereby gives notice that as a result of the death of Vernon L. Sarro, late of Germany Township, Adams County, Pennsylvania, they have assumed title to the assets held in such trust, and all persons indebted to Vernon L. Sarro are requested to make payment without delay and those having claims against the same, shall make them known to the Co-Trustees c/o Clayton A. Lingg, Esquire, Mooney Law, 230 York Street, Hanover, PA 17331.

Co-Trustees: Daniel T. Sarro and
Christine N. Garvin

Clayton A. Lingg, Esq.,
Mooney Law
230 York Street
Hanover, PA 17331

THIRD PUBLICATION**ESTATE OF HELEN G. MARKLE, DEC'D**

Late of Mount Joy Township, Adams County, Pennsylvania

Co-Executrices: Ann E. Madison and Virginia M. Davis, c/o Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011

Attorney: Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011

ESTATE OF CORETTA E. REDDING, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Michael A. Redding and Jo Ann Prehn, c/o Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011

Attorney: Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 3464 Trindle Road, Camp Hill, PA 17011

ESTATE OF EDITH C. SHULL a/k/a EDITH K. SHULL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Bonnie Willard, 14406 Tower Road, Waynesboro, PA 17268

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



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