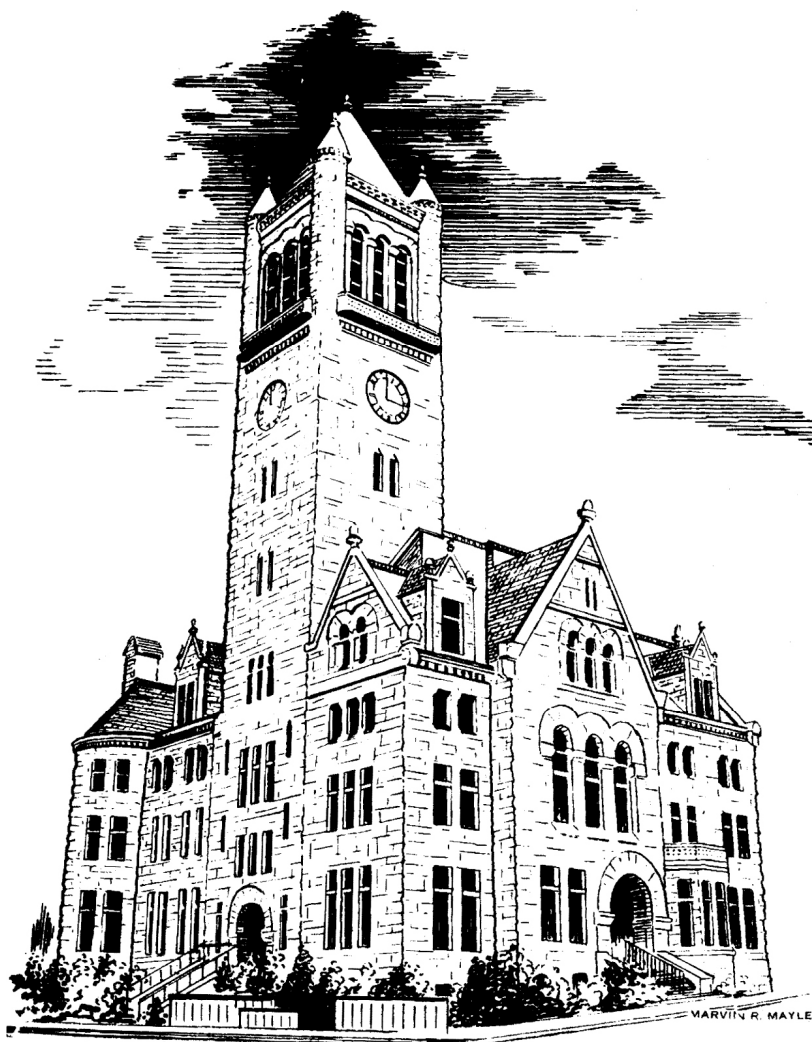


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ESTATE NOTICES

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

ELIZABETH A. ACKINCLOSE, a/k/a ELIZABETH ACKINCLOSE, late of Fayette City, Fayette County, PA (3)

Executor: Timothy R. Ackinclose
17930 Garden Lane
Apartment No. 3
Hagerstown, MD 21740
c/o Melenyzer & Agrafiotis, LLC
337 Fallowfield Avenue
Charleroi, PA 15022
Attorney: Thomas P. Agrafiotis

SHIRLEY BABILYA, a/k/a SHIRLEY ANN BABILYA, late of Brownsville Borough, Fayette County, PA (3)

Personal Representative:
Rebecca Lynn Costello
112 Carmichaels St.
Rices Landing, PA 15357
c/o Mitchell Law Office
P.O. Box 122
902 First Street
Hiller, PA 15444
Attorney: Herbert G. Mitchell, III

DAVID RUSSELL BROOKS, SR., a/k/a DAVID R. BROOKS, late of Dunbar Township, Fayette County, PA (3)

Personal Representative: Lisa Brenneman
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

BETTY J. CERNUSKA, late of Perry Township, Fayette County, PA (3)
Co-Executrixes: Judith Ann Thorpe and Pamela Jane Cunningham
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

LORI GAY COSSELL, a/k/a LORI G. COSSELL, late of Dunbar Township, Fayette County, PA (3)

Personal Representative: April Brooks
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

KATHRYN R. HAUTH, late of Washington Township, Fayette County, PA (3)

Executor: John William Gallo
6224 Highview Drive
Rostraver Township, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

Second Publication

MARIE LUKACHIK, late of North Union Township, Fayette County, PA (2)

Executrix: Jacqueline Lukachik
110 Meadowview Court
Uniontown, PA 15401
c/o 92 East Main Street, Suite 24
Uniontown, PA 15401
Attorney: Michelle Kelley

STANLEY BERNARD SOBEK, late of Redstone Township, Fayette County, PA (2)

Administratrix: Juliann E. Braddock
535 Pittsburgh Road
Brownsville, PA 15417
c/o 1600 Morrell Avenue
P.O. Box 100
Connellsville, PA 15425
Attorney: Robert R. Harper, Jr.

First Publication

MICHAEL C. KEEFER, a/k/a MIKE KEEFER, late of Connellsville, Fayette County, PA ⁽¹⁾
Administratrix: Elma Porterfield
215 South Prospect
Connellsville, PA 15425

RAVINDRAN NADARAJAH, a/k/a DR. RAVINDRAN NADARAJAH, late of South Union Township, Fayette County, PA ⁽¹⁾
Administrator: Anusha Paramesvaran
c/o Goodwin Como, P.C.
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Benjamin F. Goodwin

DUANE READY, a/k/a DUANE W. READY, late of Uniontown, Fayette County, PA ⁽¹⁾
Executrix: Lynn Ready-Aspiotes
663 Elm Street
Bridgeville, PA 15017
c/o Hanchak & Pratt, LLC
76 Old Clairton Road
Pittsburgh, PA 15236
Attorney: Grey Pratt

TIFFANY RIDER, late of Menallen Township, Fayette County, PA ⁽¹⁾
Administrator: Andrew Rider
c/o Berger and Green
800 Waterfront Drive
Pittsburgh, PA 15222
Attorney: Mark Milsop

DONNA R. SWANEY, late of South Union Township, Fayette County, PA ⁽¹⁾
Executor: Timothy E. Swaney
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James E. Higinbotham, Jr.

DAVID A. VENSKO, late of North Union Township, Fayette County, PA ⁽¹⁾
Executrix: Kathleen D. Vensko
c/o Radcliffe Martin Law, LLC
648 Morgantown Road, Suite B
Uniontown, PA 15401
Attorney: William M. Martin

LEGAL NOTICES

PUBLIC NOTICE

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: DONAVEN JENNINGS a/k/a
DONAVEN DAVON JENNINGS
D.O.B. 10/19/2023
PLACE OF BIRTH: Allegheny County
GENDER: Male

MOTHER'S LAST NAME: JENNINGS

CHILD OF: Adam Cinciripini a/k/a Adam B
Cinciripini a/k/a Adam Brian Cinc a/k/a
Adam Brian Cinc Sr a/k/a Adam B Cinciripini
a/k/a Adam Cincicipi a/k/a Aiadam
Cincirpini a/k/a Adam Cincirpini

NOS: 63-25-0840

Take notice that a Petition for Involuntary Termination of Parental Rights of Adam Cinciripini a/k/a Adam B Cinciripini a/k/a Adam Brian Cinc a/k/a Adam Brian Cinc Sr a/k/a Adam B Cinciripini a/k/a Adam Cincicipi a/k/a Aiadam Cincirpini a/k/a Adam Cincirpini will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert parental rights should appear in Courtroom No. 2 of the Washington County Courthouse, 1 S. Main Street, Washington, Pennsylvania, 15301 for a hearing as to the same on September 25, 2025, at 10:00 a.m.

You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present.

You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or cannot afford representation, contact the Summit Legal Aid, 10 West Cherry Avenue, Washington, Pennsylvania, 15301, (724) 225-6170, to find out where you can obtain legal help.

You have a right to obtain a copy of the Petition for Involuntary Termination of Parental Rights prior to the hearing. To obtain a copy of the petition, contact Washington County Children & Youth Social Services Agency, Legal Department, 95 West Beau Street, suite

300, Washington, PA 15301, Telephone: (724)
228-6884.

Deborah Eckels-Boles, Caseworker
Washington County Children & Youth
Social Service Agency
95 West Beau Street, Suite 300
Washington, PA 15301
Telephone: (724) 228-6884

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JOHN F. WARMAN

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Smithfield, PA 15478

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johnfranciswarman@gmail.com

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JUDICIAL OPINION

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

McLUCKEY DEVELOPMENT, LLC,	:
Plaintiff,	:
v.	:
GNAGEY DEVELOPMENT COMPANY, L.P.,	:
Defendant,	:
and	:
HARRY W. BURD, JR., and BARBARA JO	:
BURD, his wife, and BURD PLAZA, INC., and	:
WHARTON TOWNSHIP,	: No. 1375 of 2022, G.D.
Additional Defendants.	: Honorable Joseph M. George, Jr.

OPINION AND ORDER

GEORGE, J.

June 10, 2025

Before the Court are the Motions for Summary Judgment filed by Plaintiff, McLuckey Development, Inc. ("McLuckey"), Defendant, Gnagey Development Company, L.P., ("Gnagey"), and Additional Defendant, Wharton Township. Upon consideration of the Motions, Responses, Briefs, and Oral Arguments offered by the parties, the Court enters the following Opinion and Order.

The various claims, Crossclaims, and Counterclaims in this matter arise from two sales of a parcel of commercial land known as 4142 National Pike, Wharton Township, Fayette County, Pennsylvania, ("Property") and whether Wharton Township issued a permit for the operation of an on-site sewage system. In 2002, Additional Defendants, Harry W. Burd, Jr., Barbara Jo Burd, his wife, and Burd Plaza, Inc. (collectively, "the Burds") constructed a gas station and convenience store on the Property, which is still operated as a Sunoco station today. The Burds sold the Property to Gnagey in 2015, and Gnagey later sold the same to McLuckey in 2020. In 2022, McLuckey received a notice from the Pennsylvania Department of Environmental Protection (DEP) that no permit had ever been issued for the on-site sewage system and that the existing system could not be used to service the Property. The DEP further indicated that there was no acceptable site on the property that could support an on-site sewage system.

McLuckey filed a Complaint against Gnagey on July 21st, 2022, for, inter alia, breach of contract, as Gnagey had warranted that it possessed a permit for the operation of the on-site sewage system for the Property in the Sales Agreement between those parties. In fact, Gnagey did not have a permit in its possession, rather, it had based the representation about the permit on similar representations the Burds had made to Gnagey in the earlier sale between those parties. Gnagey joined the Burds as parties on July 26th, 2022, and filed a Crossclaim on October 19th, 2022. The Burds filed a Praecipe to Join Wharton Township as additional defendants on September 29th, 2022, and a Counterclaim against Gnagey on November 23rd, 2022. After extensive discovery, McLuckey, Gnagey, and Wharton Township filed Motions for Summary Judgment.

Summary Judgment

Summary Judgment is governed by Pa. R.C.P. 1035.2 and is only permitted after the relevant pleadings are closed. A record that supports summary judgment will either show the material facts are undisputed or contain insufficient evidence of facts to make out a *prima facie* cause of action or defense, leaving no issue to be submitted to the fact finder. *DeArmitt v. New York Life Ins. Co.*, 73 A.3d 578, 586 (Pa. Super. 2013). Summary judgment may only be granted in cases that are clear and free from doubt. *Weiss v. Keystone Mack Sales, Inc.*, 456 A.2d 1009, 1011 (Pa. Super. 1983).

McLuckey v. Gnagey

McLuckey filed a Motion for Summary Judgment against Gnagey based on representations in the Agreement of sale that Gnagey was in possession of a permit for the on-site sewage system. Gnagey did not file a response to the Motion pursuant to Rule 1035.3. Though it does not appear that any party has made the Sales Agreement between McLuckey and Gnagey part of the record, Gnagey does not dispute that it represented in Article 5, Section 5.01, that it was in possession of the permit for the on-site sewage system, when in fact it did not have the actual permit, and had based those representations on prior representations the Burds had made during the earlier sale from the Burds to Gnagey. As there is no dispute as to these material facts, Summary Judgment in favor of McLuckey against Gnagey is appropriate as to liability only, with the issues of indemnification by the Burds and the amount of damages remaining as issues in the case.

Gnagey v. the Burds

Gnagey filed a Motion for Summary Judgment against the Burds on Gnagey's Crossclaim against the Burds and on the Burds' Counterclaim against Gnagey. Gnagey's Motion is based on Harry Burd, Jr.'s admissions during his deposition testimony that he has been unable to locate a permit for the on-site sewage system and did not have possession of a permit at the time of the sale, and his representations to Gnagey prior to closing that there was an alternate site on the Property for an on-site sewage system. Gnagey also relies on Wharton Township's admission in its Response to Request for Admissions from Wharton Township to Gnagey that no permit was ever issued.

There are clearly unresolved issues of material facts as to the claims between these parties that would preclude summary judgment. The underlying question in this matter is whether a permit was ever issued for the on-site sewage system on the Property and that question has not been resolved. There are also questions of material fact as to what extent Gnagey was aware of the issues with the system and permit prior to the sale to McLuckey and whether any subsequent actions they took (or did not take) after the Burd sale with the on-site system and any potential alternate site contributed to the issues on the Property.

Gnagey cites to Wharton Township's Admission (in response to Gnagey's Requests for Admissions) that the Township never issued a permit in the matter and contends that pursuant to the language of Rule 4014(d), the admission is conclusively established as fact for the purposes of the case. "Statements of fact by one party in pleadings, stipula-

tions, testimony, and the like, made for that party's benefit, are termed judicial admissions and are binding on the party." John B. Conomos, Inc., v. Sun Co., Inc. (R&M), 831 A.2d 696, 712 (Pa. Super. 2003) (emphasis added). Judicial admissions are deemed true and cannot be contradicted by the admitting party. Id. To qualify as a judicial admission, it must be a clear and unequivocal admission of fact and cannot be a legal theory or a conclusion of law. Id., at 713. "When there is uncertainty surrounded a conceded fact, it is the role of the judge or jury as fact finder to determine which facts have been adequately proved and which must be rejected." Id.

Here, the admission is presumed true as to Wharton Township, but not against the Burds, who may challenge its veracity. As the statement is directly contradicted by other evidence in the record, a 2022 email from the Township Secretary-Treasurer sent to Harry Burd and attached as the last exhibit to the Burds' Response to Defendant's Motion for Summary Judgment, the Court cannot accept Wharton Township's admission as conclusively true against the Burds. There is an important distinction between having no record of issuing a permit (where the Burds clearly applied for and complied with many of the requirements of the permit process, but the Township has no records of those documents), and a definitive statement that the permit was never issued. Under these circumstances, the Burds are entitled to have the opportunity to challenge the basis for Wharton Township's conclusion that there was never a permit issued.

Wharton Township v the Burds

Wharton Township filed a Motion for Summary Judgment on the basis that the parties have conducted extensive discovery and the Burds, who joined the Township by writ and have not filed a complaint or other claim, have failed to plead or produce evidence of a cognizable claim against Wharton Township. The Burds contend that the Motion is premature, as no Complaint has been filed against Wharton Township and therefore the pleadings cannot be closed, a prerequisite to filing a motion for summary judgment pursuant to Rule 1035.2.

Summary Judgment is not the proper form of a motion for this purpose at this stage when there have been no pleadings filed. *Brower v. Berlo Vending Co.*, 386 A.2d 11, fn.3 (Pa. Super. 1978). Wharton Township's recourse would be to praecipe the Prothonotary to enter a rule upon the Burds to file a Complaint pursuant to Rule 1037(a) (subject to the additional notice requirements of Rule 237.1(a)(2), with the option to file a second praecipe for an entry of non pros if the Burds would fail to file a complaint within twenty days of service of the rule. Thus, the Motion for Summary Judgment against the Burds and in favor of Wharton must be denied. However, this Court agrees that the matter should move forward and will issue a rule upon the Burds to file a complaint against Wharton Township.

ORDER

AND NOW, this 10th day of June, 2025, upon consideration of the Motions for Summary Judgement filed by the various parties in the above-captioned action, the Court hereby ORDERS and DIRECTS as follows:

The Motion for Summary Judgment filed by Plaintiff, McLuckey Development, LLC, against Defendant, Gnagey Development Company, L.P. is hereby GRANTED on the issue of liability only, with the issues of indemnification and damages still to be litigated.

The Motion for Summary Judgment filed by Defendant, Gnagey Development Company, L.P. against the Additional Defendants, Harry W. Burd, Jr., Barbara Jo Burd, and Burd Plaza, Inc., is hereby DENIED, without prejudice, as there are unresolved issues of material fact.

The Motion for Summary Judgement filed by Additional Defendant, Wharton Township, against Additional Defendants, Harry Burd, Jr., Barbara Burd, and Burd Plaza, Inc., ("Burds"), is DENIED, without prejudice, as premature. The Court further DIRECTS that the Burds shall have twenty (20) days of the date this Order is mailed by the Prothonotary to file a Complaint against Wharton Township. If the Burds fail to do so within that time period, Wharton Township may file a praecipe with the Prothonotary to enter a judgment of non pros pursuant to Pa. R.C.P. 1037(a) without any requirement for further notice prior to filing the praecipe.

BY THE COURT:
JOSEPH M. GEORGE, JR., JUDGE

ATTEST:
PROTHONOTARY

LUNCH & LEARN SERIES

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

- Date: **Wednesday, September 17th** from **12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topic: **The Criminal Arena: New Cases; Old Issues**
- Presenter: **Bruce A. Antkowiak, J.D., LL.D.**

CLE Credit

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

Members of the FCBA

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Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
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**** All fees to be paid at the door ****
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 15th.

BENCH BAR CONFERENCE

SAVE THE DATE

FCBA Bench Bar Conference will be held on

Wednesday, October 22nd from
8:30 a.m. to 1:00 p.m. at

The Historic Summit Inn

Agenda to follow