

Adams County Legal Journal

Vol. 58

November 11, 2016

No. 27, pp. 159-163

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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, John W. Phillips, Esq., Editor and Business Manager.

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

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NOTICE

ESCAPE IN TIME, INC. filed a Foreign Registration Statement with the Commonwealth of Pennsylvania. The address of its principal office under the laws of its jurisdiction is 1405 Ramblewood Dr., Emmitsburg, MD 21727. The Commercial Registered Office address is 57 N. 5th St., Gettysburg, PA 17325, in the county of Adams. The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 412.

11/11

NOTICE

NOTICE IS HEREBY GIVEN that JUSTIN CRAIG NELL, ESQUIRE, intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on the 8th day of December, 2016, and that he intends to practice law with the Nell Law Office, County of Adams, 130 West King Street, East Berlin, Pennsylvania.

11/11, 11/18, 11/23

NOTICE

NOTICE IS HEREBY GIVEN that Adam D. Boyer, intends to apply in open court for admission to the Bar of the Court of Common Pleas of Adams County, Pennsylvania, on December 8, 2016, and that he intends to practice law as an Associate in the office of Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, Pennsylvania.

11/11, 11/18, 11/23

SUSAN TROSTLE V. NICHOLAS ORIOLO

1. Questions of negligence and causation are to be resolved by the jury, and not the judge. The Rules of Evidence distinguish expert testimony from lay witness testimony.

2. In order to prove the causal connection between Plaintiff's injuries and Defendant's conduct, Plaintiff would need to produce an expert opinion, documenting her injuries and stating that those injuries were a result of the motor vehicle accident with Defendant or that the accident aggravated her pre-existing injuries.

3. Although Plaintiff's physicians are expert witnesses and would be utilizing specialized knowledge in their testimony, they should be treated as ordinary witnesses subject to deposition. Rule 4003.5 is inapplicable to witnesses not acquired or developed with an eye toward litigation and cannot be invoked to sanction . . . for non-compliance. Plaintiff's treating physicians were not acquired with an eye toward litigation. Therefore, Rule 4003.5 is inapplicable to them.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, CIVIL 12-SU-1229, SUSAN TROSTLE V.
NICHOLAS ORIOLO.

Peter R. Henninger, Jr., Esq., Attorney for Plaintiff

Kevin D. Rauch, Esq., Attorney for Defendant

Campbell, J., September 28, 2016

OPINION

Before this Court is Defendant Nicholas Oriolo's Motion for Summary Judgment filed August 3, 2016. For the reasons stated herein, the attached Order denying Defendant's Motion for Summary Judgment is entered.

This cause of action arises from a motor vehicle accident that occurred on August 30, 2010. Defendant rear-ended Plaintiff at the intersection of Sheeler Road and Oak Lane in Gettysburg, Adams County, Pennsylvania. On August 15, 2012, Plaintiff initiated this suit, filing a writ of summons. A status conference was held on September 29, 2015. This Court issued an order immediately following the status conference for Plaintiff to produce to Defendant all medical expert reports no later than December 31, 2015. On March 3, 2016, Defendant filed a motion to compel Defendant's second request for Plaintiff's production of documents. This Court issued an order on March 7, 2016 ordering Plaintiff to produce the documents or suffer additional sanctions. On June 23, 2016, this Court, in consideration of Defendant's Motion for Sanctions, ordered the Plaintiff to file an Answer to the Rule within ten days of service. Plaintiff was served on June 29, 2016 and failed to answer. On July 19, 2016, this Court granted Defendant's Motion for Sanctions, precluding Plaintiff from maintaining her claim for economic damages and from introducing expert testimony on her behalf. Defendant filed a Motion for Summary Judgment on August 3, 2016, and oral argument occurred on September 21, 2016.

In his Motion for Summary Judgment, Defendant argues that he is entitled to summary judgment because without expert testimony, Plaintiff cannot be in compliance with Pennsylvania Rules of Civil Procedure 1035.2(2). Defendant argues that Plaintiff is unable to produce an expert report to establish causation between the Defendant's conduct and Plaintiff's alleged injuries.

In relation to Motions for Summary Judgment, the Pennsylvania Rules of Civil Procedure provide:

After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

- (1) whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or
- (2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Pa. R. C. P. 1035.2. Summary judgment is only appropriate in those cases which are free and clear from doubt. *McConnaughey v. Bldg. Components, Inc.*, 637 A.2d 1331, 1333 (Pa. 1994). “The purpose of the rule [1035.2] is to eliminate cases prior to trial where a party cannot make out a claim or a defense after relevant discovery has been completed; the intent is not to eliminate meritorious claims prematurely before relevant discovery has been completed.” **PA. R. CIV. P. 1035.2, Explanatory Comment—1996.** Before the moving party files for summary judgement, “the adverse party must be given adequate time to develop the case and the motion will be premature if filed before the adverse party has completed discovery relevant to the motion.” **PA. R. CIV. P. 1035.2, Explanatory Comment—1996.**

In order to be liable for negligence, the plaintiff must prove that the defendant (1) had a legally recognized duty that he “conform to a standard of care; (2) the defendant breached that duty; (3) causation between defendant’s “conduct and the resulting injury;” and (4) “actual damage to the plaintiff.” *Truax v. Roulhac*, 126 A.3d 991, 997 (Pa. Super. 2015) (citing *Ramalingam v. Keller Williams Realty Group, Inc.*, 121 A.3d 1034, 1042 (Pa. Super. 2015)).

It is settled in the law that except in rare situations not here involved the mere occurrence of an injury does not prove negligence and that an admittedly negligent act does not necessarily entail liability; rather even when it is established that the defendant breached some duty of care owed the plaintiff, it is incumbent on a plaintiff to establish a causal connection between defendant's conduct and the plaintiff's injury. Stated another way, the defendant's conduct must be shown to have been the proximate cause of

plaintiff's injury.... Proximate cause is a term of art denoting the point at which legal responsibility attaches for the harm to another arising out of some act of defendant, ... and it may be established by evidence that the defendant's negligent act or failure to act was a substantial factor in bringing about the plaintiff's harm.... The defendant's negligent conduct may not, however, be found to be a substantial cause where the plaintiff's injury would have been sustained even in the absence of negligence.

Correll v. Werner, 437 A.2d 1004, 1005-1006 (Pa. Super. 1981) (quoting **Hamil v. Bashline**, 392 A.2d 1280, 1284 (Pa. 1978)). “[Q]uestions of negligence and causation are to be resolved by the jury, and not the judge.” **Farnese v. Southeastern Pennsylvania Transp. Authority**, 487 A.2d 887, 890 (Pa. Super. 1985). The Rules of Evidence distinguish expert witness testimony¹ from lay witness testimony.²

Here, Plaintiff alleges that she was injured as a result of this motor vehicle accident and has received physical therapy and treatment ever since the accident. In order to prove the causal connection between Plaintiff's injuries and Defendant's conduct, Plaintiff would need to produce an expert opinion, documenting her injuries and stating that those injuries were a result of the motor vehicle accident with Defendant or that the accident aggravated her pre-existing injuries. Defendant argues that due to Plaintiff's extensive medical history of pain, ailments, and treatment, Plaintiff will be unable to establish that Defendant's conduct caused her injuries.

Plaintiff argues that her physician who treated her the same day of the accident and her various other physicians will be able to testify to her injuries and establish the required causation. Although Plaintiff's physicians are expert witnesses and would be utilizing specialized knowledge in their testimony, they “should be treated as ordinary witness[es] subject to deposition.” **Miller v. Brass Rail Tavern**, 664 A.2d 525, 531 (Pa. 1995) (holding that Rule 4003.5 is inapplicable to witnesses not “acquired or developed with an eye toward litigation” and “cannot be invoked to sanction...for non-compliance.”)). Plaintiff's treating physicians were not acquired with an eye toward litigation. Therefore, Rule 4003.5 is inapplicable to them.

¹ PA. R. EVID. 702.

² PA. R. EVID. 701.

This case is not “free and clear of doubt.” During discovery, Plaintiff has produced medical reports, which arguably contain the opinions of the treating physicians which in turn may be able to establish the causation that Plaintiff is required to prove. Through these medical reports of Plaintiff’s treating physicians, Plaintiff has just enough evidence to avoid summary judgement. Whether the statements of the treating physicians contained within the medical records produced during discovery are sufficient to prove the required causation by a preponderance of evidence is a question for the jury.

Therefore, for the reasons stated herein, Defendant’s Motion for Summary Judgment is denied, and the attached Order is entered.

ORDER

AND NOW, this 28th day of September, 2016, Defendant’s Motion for Summary Judgement 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 EDWARD L. KRANTZ, DEC'D**

Late of Freedom Township, Adams County, Pennsylvania

Attorney: Wenette J. Drum, 203 Linden Blvd., Middletown, MD 21769

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

ESTATE OF GLORIA L. WISEMAN a/k/a GLORIA LADYNE WISEMAN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Mr. Bradley M. Wiseman, 125 Park Heights Boulevard, Hanover, Pennsylvania 17331

Attorney: Arthur J. Becker, Jr., Esq., Becker & Strausbaugh, P.C., 544 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION**ESTATE OF MICHAEL J. DETTINBURN, a/k/a MICHAEL JOSEPH DETTINBURN, DEC'D**

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executor: Joseph S. Dettinburn, 229 Racetrack Road, Hanover, PA 17331

Attorney: David C. Smith, Esq., 754 Edgegrove Road, Hanover, PA 17331

ESTATE OF JAMES W. FOX, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania

Administratrix: Diane Z. Fox, 30 Conewago Street, Biglerville, PA 17307

Attorney: Law Office of Keith O. Brenneman, P.C., 44 West Main Street, Mechanicsburg, PA 17055

ESTATE OF RICHARD J. MILLS, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Co-Executors: Michael J. Mills, Douglas R. Mills, Matthew E. Mills, c/o Matthew E. Mills, 2451 Hanover Road, Gettysburg, PA 17325

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

ESTATE OF KENNETH BENNER SELBY, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Cassandra Selby, 404 Heritage Drive, Gettysburg, PA 17325

ESTATE OF HANNAH N. TEETER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Robert G. Teeter and Samuel E. Teeter, 108 W. Middle Street, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle Street, Gettysburg, PA 17325

ESTATE OF FRANK J. WACHTER, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: PNC Wealth Management, P. O. Box 308, 4242 Carlisle Pike, Camp Hill, PA 17001-0308

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION**ESTATE OF ALMA J. BECK, DEC'D**

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executor: Robert Clofine

Attorney: Robert Clofine Esq., Elder Law Firm of Robert Clofine, 340 Pine Grove Commons, York, PA 17403

ESTATE OF LORRAINE ELLEN CHRONISTER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Administrator: Jason B. Chronister, 170 White Oak Tree Road, York Springs, PA 17372

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

ESTATE OF JUSTINE H. CLASSEN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Carolyn Classen Resciniti, 185 Hunter's Trail, Gettysburg, PA 17325

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

ESTATE OF BETTY L. DOCKEY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Robert S. Dockey, Jr., 310 Lincolnway West, New Oxford, PA 17350; Harriet V. Johnson, 502 Atlantic Ave., York, PA 17404

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

ESTATE OF LARRY G. HELLER, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executrix: Fay L. Heller, 60 Meadow Lane, Gettysburg, PA 17325

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

ESTATE OF VIVIAN M. KAUFFMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Patricia A. Orndorff, 148 East Water Street, Gettysburg, PA 17325

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

ESTATE OF PAUL M. KRIEGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Neal P. Krieger, 62 Curtis Drive, East Berlin, PA 17316; Ronald A. Krieger, 62 Curtis Drive, East Berlin, PA 17316

ESTATE OF KAY Y. LaRUE a/k/a KAY YVONNE LaRUE, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: Michael E. LaRue, 630 Ridge Road, York Springs, PA 17372; Teresa Y. LaRue n/k/a Teresa Y. Bailey, 604 Ridge Road, York Springs, PA 17372

Attorney: Jane M. Alexander, Esq., 148 S. Baltimore Street, Dillsburg, PA 17019

THIRD PUBLICATION CONTINUED

ESTATE OF ROSETTA K. LAWYER,
DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Executor: Chad S. Lawyer, c/o Richard
K. Konkell, Esq., CGA Law Firm, PC,
135 North George Street, York, PA
17401

Attorney: Richard K. Konkell, Esq.,
CGA Law Firm, PC, 135 North
George Street, York, PA 17401

ESTATE OF NAOMI P. PEIRCE, DEC'D

Late of Cumberland Township, Adams
County, Pennsylvania

Executrix: Linda P. Haberkorn, 47
Delawares Ridge, Gettysburg, PA
17325

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

ESTATE OF MARTIN VOELK, DEC'D

Late of Straban Township, Adams
County, Pennsylvania

Executor: Robert G. Teeter, Esq.,
Teeter, Teeter & Teeter, 108 W.
Middle Street, Gettysburg, PA
17325

Attorney: Robert G. Teeter, Esq.,
Teeter, Teeter & Teeter, 108 W.
Middle Street, Gettysburg, PA 17325