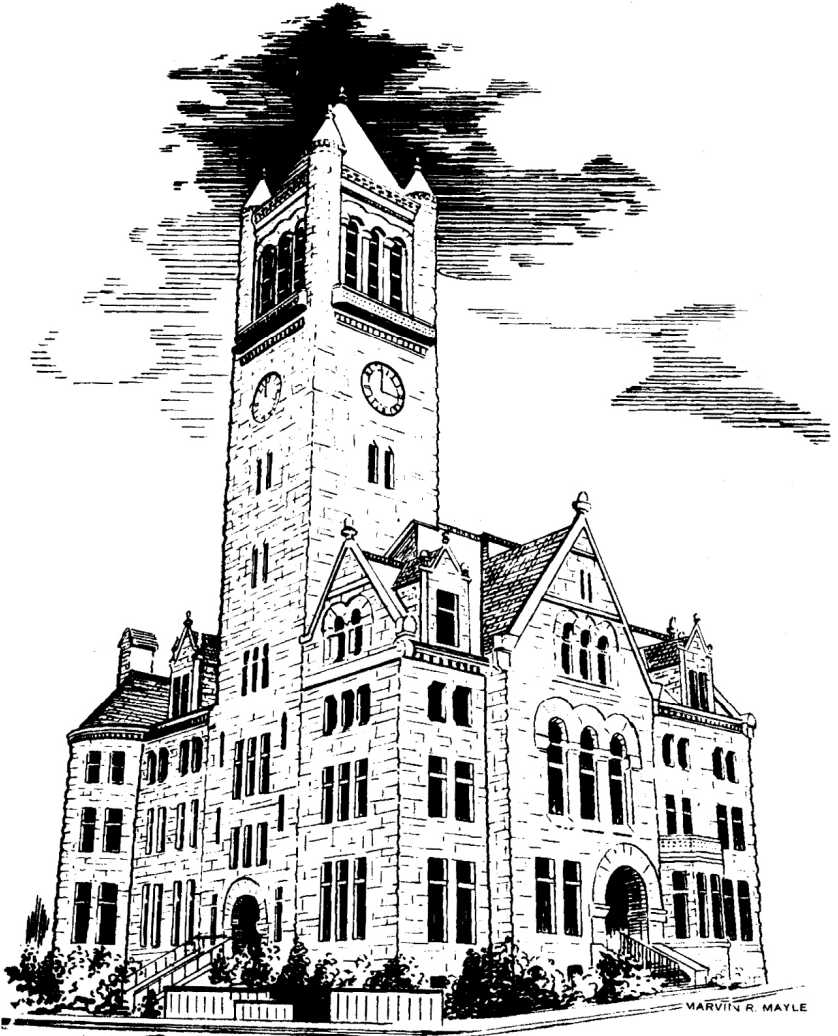


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ESTATE NOTICES

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

**MILDRED MAXINE BARRICKLOW, a/k/a
MILDRED M. BARRICKLOW, a/k/a
MILDRED BARRICKLOW**, late of South
Connellsville, Fayette County, PA (3)

Co-Executrices: Evelyn Denise Brown and
Carolyn W. Maricondi
c/o P.O. Box 760
Connellsville, PA 15425
Attorney: Carolyn W. Maricondi

CARLITA V. BALOSKY, late of Smock,
South Union Township, Fayette County, PA (3)

Executor: Anthonette Smith
66 East End Road
Smock, PA 15480
c/o 76 East Main Street
Uniontown, PA 15401
Attorney: Douglas S. Sholtis

Second Publication

BRENT ALEX BLAKE, late of North Union
Township, Fayette County, PA (2)

Administrator: Nancy L. Blake
c/o Proden & O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

**SELMA E. BLAZEK, a/k/a SELMA ELAINE
BLAZEK**, late of Masontown, Fayette
County, PA (2)

Executrix: Denise M. Martin
c/o DeHaas Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

RONALD I. CRAMER, late of Springfield
Township, Fayette County, PA (2)

Executor: Patrick A. Cramer
c/o Zebbley Mehalov & White, P.C.
18 Mill Street Square
Post Office Box 2123
Uniontown, PA 15401
Attorney: Daniel R. White

BETTY COLLAND, late of Bullskin
Township, Fayette County, PA (2)

Administrator: Ronald Colland
1426 Spyglass Hill
Greensburg, PA 15601
c/o Harper & Mikluscak
111 East Main Street
Uniontown, PA 15401
Attorney: Robert R. Harper, Jr.

PATRICIA A. REICHOLF, late of Nicholson
Township, Fayette County, PA (2)

Personal Representative: William J. Reicholf
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

**JESSE JAMES RISHA, a/k/a JESSE J.
RISHA, a/k/a JESSE RISHA**, late of
Uniontown, Fayette County, PA (2)

Personal Representative: Tofy D. Risha
c/o George & George, LLP
92 East Main Street
Uniontown, PA 15401
Attorney: Joseph M. George

First Publication

MILLYS N. ALTMA, late of South Union
Township, Fayette County, PA (1)

Executor: Dan N. Altman
c/o 206 Derrick Avenue
Uniontown, PA 15401
Attorney: Gary N. Altman

ARLINE CUNNINGHAM, late of Georges
Township, Fayette County, PA (1)

Co-Executors: Marcia Martin,
Sheri Groover and Charles R. Darr
28 West Elm Street

Fairchance, PA 15436
 c/o Clark Hill PLC
 301 Grant Street, 14th. Floor
 Pittsburgh, PA 15219
 Attorney: Keith H. West

RICHARD DUHON, late of Menallen Township, Fayette County, PA (1)
 Personal Representative: Allen Wirth
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, PA 15401
 Attorney: Jason R. Adams

JOSEPH T. FIERSCHNALLER, a/k/a
JOSEPH FIERSCHNALLER, a/k/a **JOE FIERSCHNALLER, JR.**, late of Connellsville, Fayette County, PA (1)
 Executor: Mark Joseph Fierschnaller
 c/o John & John
 96 East Main Street
 Uniontown, PA 15401
 Attorney: Simon B. John

NANCY FIRESTONE, late of South Union Township, Fayette County, PA (1)
 Administratrix: Jodi Ganoe
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, PA 15401
 Attorney: Jason F. Adams

GLORIA JEAN HANCHECK, late of Georges Township, Fayette County, PA (1)
 Administrator: Thomas Hancheck
 c/o 206 Derrick Avenue
 Uniontown, PA 15401
 Attorney: Gary N. Altman

RICHARD E. KINNEER, late of South Connellsville, Fayette County, PA (1)
 Executrix: Debra J. Gaudiello
 402 East Francis Avenue
 Connellsville, PA 15425
 c/o 815A Memorial Boulevard
 Connellsville, PA 15425
 Attorney: Margaret Zylka House

FRANCIS ROBERTA MONGELLUZZO, late of Connellsville, Fayette County, PA (1)
 Executrix: Joan Mongeluzzo, a/k/a Joan Bartholow
 c/o Riverfront Professional Center
 208 South Arch Street, Suite 2
 Connellsville, PA 15425
 Attorney: Richard A. Husband

JANICE M. RITSKO, a/k/a **JANICE RITSKO**, late of Menallen Township, Fayette County, PA (1)
 Co-Administrators: Jacqueline Carducci and John Mihelich
 c/o 206 Derrick Avenue
 Uniontown, PA 15401
 Attorney: Gary N. Altman

JAMES P. RUDDY, a/k/a **JAMES PATRICK RUDDY**, late of Bullskin Township, Fayette County, PA (1)
 Executor: Mark V. Ruddy
 c/o Snyder and Snyder
 17 North Diamond Street
 Mt. Pleasant, PA 15666
 Attorney: Marvin D. Snyder

HARRY L. SOBLOTNEY, late of Georges Township, Fayette County, PA (1)
 Administratrix: Deborah Zaph
 c/o Adams & Adams
 55 East Church Street, Suite 101
 Uniontown, Pa 15401
 Attorney: Jason F. Adams

LEGAL NOTICES

NOTICE

The Albert Gallatin Area School District will sell, at a public auction to be held Tuesday, October 8th, 2018 at 5:00PM, the building and land comprising the former A.L. Wilson Elementary School. The property is located at 100 A.L. Wilson Drive, Fairchance, Fayette County, Pennsylvania; Fayette County Assessment Office Parcel I.D. Nos. 11-07-0060 and 11-07-0076.

The public auction will be conducted by Joe R. Pyle Complete Auction & Realty, LLC at 5:00PM on October 8th, 2018 on location at the former A.L. Wilson Elementary School located at 100 A.L. Wilson Drive Fairchance, PA 15436. Interested parties shall register on that day to bid from 4:00PM – 5:00PM. Copies of sale information, terms & conditions may be obtained by visiting joerpyleauctions.com, or by contacting Alan Heldreth, General Manager & Auctioneer, Joe R. Pyle Auctions at 888-878-1599 or at info@joerpyleauctions.com. The Albert Gallatin Area School District reserves the right to reject any and all bids. (2 of 3)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA
CIVIL NO. 2:17-CV-01376-DSC

IN RE:
UNITED STATES OF AMERICA,
Plaintiff
vs.
DOUGLAS S. KATONA and
KIMBERLY A. MILLER,
Defendants

MARSHAL'S SALE: By virtue of a Writ of Execution issued out of the United States District Court for the Western District of Pennsylvania and to me directed, I shall expose to public sale the real property located at and being more fully described at Fayette County Deed Book 813 Page 292.

SAID SALE to be held at the Fayette County Courthouse in the hallway outside of the Sheriff's Office, 61 East Main Street, Uniontown, PA 15401 at **10:00 a.m.** prevailing standard time, on **November 2, 2018.**

ALL that certain tract of land, together with the buildings, and improvements erected

thereon described as Tax Parcel No. 33-07-002901 recorded in Fayette County, Pennsylvania, commonly known as: **204 Mentzer Street, South Connellsville, Pennsylvania 15425.**

IDENTIFIED as Tax/Parcel #: 33-07-002901 in the Deed Registry Office of Fayette County, Pennsylvania. HAVING erected a dwelling thereon known as 204 MENTZER STREET, SOUTH CONNELLSVILLE, PA 15425. BEING the same premises conveyed to Douglas S. Katona and Kimberly A. Miller, dated April 17, 1991, and recorded on April 18, 1991 in the office of the Recorder of Deeds in and for Fayette County, Pennsylvania. Seized and taken in execution as the property of Douglas S. Katona and Kimberly A. Miller at the suit of the United States of America, acting through the Under Secretary of Rural Development on behalf of Rural Housing Service, United States Department of Agriculture, to be sold on Writ of Execution as Civil Action No. 2:17-cv-01376.

TERMS OF SALE: Successful bidder will pay ten percent (10%) by certified check or money order upon the property being struck down to such bidder, and the remainder of the bid within thirty (30) days from the date of the sale and in the event the bidder cannot pay the remainder, the property will be resold and all monies paid in at the original sale will be applied to any deficiency in the price at which the property is resold. The successful bidder must send payment of the balance of the bid directly to the U.S. Marshal's Office c/o Sheila Blessing, 700 Grant Street, Suite 2360, Pittsburgh, PA 15219. Bidder must have deposit funds immediately available and on his person in order to bid, bidder will not be permitted to leave the sale and return with deposit funds. Notice is hereby given that a Schedule of Distribution will be filed by me on the thirtieth (30th) day after the date of sale, and that distribution will be made in accordance with the Schedule unless exemptions are filed thereto within ten (10) days thereafter. Purchaser must furnish State Realty Transfer Tax Stamps, and stamps required by the local taxing authority. Marshal's costs, fees and commissions are to be borne by seller. Michael Baughman, Acting United States Marshal. For additional information, please contact Cathy Diederich at 314-457-5514 or the USDA foreclosure website at www.resales.usda.gov. (1 of 4)

NOTICE OF ACTION IN MORTGAGE FORECLOSURE - COURT OF COMMON PLEAS - FAYETTE COUNTY, PA - CIVIL ACTION – The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-8, Plaintiff vs. Teresa D. Jenkins a/k/a Teresa D. Barnhart, Individually and Teresa D. Jenkins a/k/a Teresa D. Barnhart, Known Heir to the Estates of Arnold E. Jenkins and Verna M. Jenkins, Deceased, Real Owners and Mortgagors, Arnold Jenkins, Known Heir to the Estates of Arnold E. Jenkins and Verna M. Jenkins, Deceased, Real Owners and Mortgagors, Michelle Jenkins, Known Heir to the Estates of Arnold E. Jenkins and Verna M. Jenkins, Deceased, Real Owners and Mortgagors and The Unknown Heirs of the Estates of Arnold E. Jenkins and Verna M. Jenkins, Deceased, Real Owners and Mortgagors, Defendants - Court of Common Pleas of Fayette County – No. 2392 of 2016 - Notice to The Unknown Heirs of the Estates of Arnold E. Jenkins and Verna M. Jenkins, Deceased, Real Owners and Mortgagors, Defendant(s): You are hereby notified that on 5/18/18, Plaintiff, The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the certificateholders of the CWABS, Inc., Asset-Backed Certificates, Series 2007-8, filed an Amended Mortgage Foreclosure Complaint together with a Notice to Defend, against you in the Court of Common Pleas of Fayette County PA, docketed as No. 2392 of 2016 together with a Notice to Defend. Plaintiff seeks to foreclose on the mortgage secured on your property located at 116 Whyel Avenue, Uniontown, PA 15401, whereupon your property would be sold by the Sheriff of Fayette 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 objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without 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 PAPER 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. PA Bar Assn., 100 South St., P.O. Box 186, Harrisburg, PA 17108, 800.692.7375.

FICTITIOUS NAME REGISTRATION

An application for registration of the fictitious name Ranker Lincoln, PO Box 855, Connellsville, PA 15425 has been filed in the Department of State at Harrisburg, PA, File Date 07/30/2018 pursuant to the Fictitious Names Act, Act 1982-295. The name and address of the person who is a party to the registration is Ranker Lincoln Mercury, Inc., PO Box 855, Connellsville, PA 15425.

NOTICE OF ACTION IN MORTGAGE FORECLOSURE

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PA
CIVIL ACTION - LAW

PENNSYLVANIA HOUSING FINANCE
AGENCY
PLAINTIFF

VS.

PAM PLESZ, HAROLD LARRY PRITTS, JR.
AND MELANIE SMITH, IN THEIR
CAPACITY AS KNOWN HEIRS OF
HAROLD L. PRITTS, DECEASED AND THE
UNKNOWN HEIRS OF HAROLD L. PRITTS,
DECEASED,
DEFENDANTS

MORTGAGE FORECLOSURE
NO. 864 OF 2018

TO: THE UNKNOWN HEIRS OF HAROLD
L. PRITTS, DECEASED, DEFENDANT(S):

You are hereby notified that on April 26, 2018, Plaintiff, PENNSYLVANIA HOUSING FINANCE AGENCY, filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of Fayette County, Pennsylvania, docketed to No. 864 of 2018 wherein Plaintiff seeks to foreclose its mortgage securing your property located at 542 Dry Road, Connellsville, PA 15425, whereupon your property would be sold by the Sheriff of Fayette 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

You have been sued in Court. If you wish to defend, you must enter a written appearance personally or by attorney, and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you without 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, TELEPHONE THE OFFICE BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Name: Pennsylvania Lawyer Referral Service

Address: Pennsylvania Bar Association
100 South Street
P.O. Box 186
Harrisburg, PA 17108
Telephone number: (800) 692-7375

Leon P. Haller, Esquire
Attorney ID #15700
1719 North Front Street
Harrisburg, Pa. 17102
717-234-4178

TO: Angela George, Individually and as the Co-Executor of the Estate of Joseph E. George, Deceased and Deanna Milliron, Known Heir you are hereby notified that on April 6, 2017, Plaintiff, Bayview Loan Servicing, LLC, filed a complaint in Mortgage Foreclosure endorsed with a Notice to Defend against you in the Court of Common Pleas of Fayette County, docket number 465 of 2017, G.D. wherein Plaintiff seeks to foreclosure on the mortgage secured by your property located at 480 2nd Street, Chestnut Ridge, PA 15422 where upon your property would be sold by the Sheriff of Fayette County.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER 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 THE 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.

**LAWYER REFERRAL AND
INFORMATION SERVICE
PENNSYLVANIA BAR ASSOCIATION
100 South Street
P.O. Box 186
Harrisburg, PA 17108
(724) 692-7375**

SHERIFF'S SALE

Date of Sale: November 15, 2018

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, November 15, 2018, at 2:00 p.m. in Courtroom Number Five at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (3 of 3)

James Custer
Sheriff Of Fayette County

KML Law Group, P.C.
Suite 5000 - BNY Independence Center
701 Market Street
Philadelphia, PA 19106
215-627-1322

**NATIONSTAR MORTGAGE LLC D/B/A
MR. COOPER
8950 Cypress Waters Boulevard
Coppell, TX 75019,
Plaintiff,
vs.
CHARLES HARVEY SICKLES JR.
HEIDI L. SICKLES
Mortgagor(s) and Record Owner(s)
102 Fourth Avenue
Uledi, PA 15484,
Defendant(s).**

ALL THAT CERTAIN lots of land situate in the County of Fayette and Commonwealth of Pennsylvania. TAX PARCEL# 34-07-0040
PROPERTY ADDRESS: 102 Fourth Avenue Uledi, PA 15484

IMPROVEMENTS: A residential dwelling.

SOLD AS THE PROPERTY OF:
CHARLES HARVEY SICKLES JR. and HEIDI L. SICKLES (3 of 3)

JUDICIAL OPINION

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

NORTH FAYETTE COUNTY	:	
MUNICIPAL AUTHORITY,	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
MUNICIPAL AUTHORITY OF	:	
WESTMORELAND COUNTY, and	:	
PENNSYLVANIA-AMERICAN	:	
WATER COMPANY,	:	No. 152 of 2016, G.D.
Defendants.	:	Honorable Nancy D. Vernon

OPINION AND ORDER

VERNON, J.

September 7, 2018

Before the Court are Preliminary Objections filed by Defendant Municipal Authority of Westmoreland County (“Municipal Authority”) and Defendant Pennsylvania-American Water Company (“Pennsylvania-American”) to the Amended Complaint of Plaintiff North Fayette County Municipal Authority (“North Fayette”). This action arises out of an expired bulk water supply agreement dated May 2, 1985, for an original term of thirty years, whereby North Fayette sold water to Pennsylvania-American in the Uniontown District and for additional supply of water for resale to other customers within Pennsylvania-American’s chartered territory. By letter dated December 3, 2003, North Fayette informed Pennsylvania-American that it would not renew the agreement upon its termination. Currently, North Fayette and Pennsylvania-American are operating under extensions to the agreement pending litigation.

In its Amended Complaint, North Fayette alleged that Pennsylvania-American refused to negotiate in good faith because of other pending litigation between the parties and instead entered into a bulk Water Purchase Agreement with Municipal Authority for its service of the Uniontown District in March 2015. The March 2015 agreement will require Municipal Authority to construct two booster stations, water lines, a fluoride feed system, and then interconnect with Pennsylvania-American’s service lines.

At Count I, North Fayette requests injunctive relief against Municipal Authority alleging the March 2015 agreement “competes with” “and/or duplicate(s)” the existing infrastructure of North Fayette “thus serving substantially the same purpose as [North Fayette’s] existing enterprise, operation, infrastructure, supply and/or service.” North Fayette alleges the March 2015 agreement violates the Municipality Authorities Act, 56 Pa.C.S.A. §5607(b)(2), in that authorities are prohibited from competing as enterprises and/or duplicating services. Accordingly, North Fayette requests the Court enjoin Municipal Authority and Pennsylvania-American from implementing or advancing the from the March 2015 agreement.

At Count II, North Fayette alleges “civil conspiracy” against Municipal Authority and Pennsylvania-American in that the March 2015 agreement “constitute[d] a meeting of the minds” and “a substantial step” toward Municipal Authority providing bulk water to Pennsylvania-American for resale and redistribution to the Uniontown District. Again, North Fayette’s allegation is that the March 2015 agreement violates the non-compete provision of the Municipality Authorities Act and requests the Court exercise its equitable powers to enjoin the execution of the agreement. In Count III, North Fayette similarly seeks declaratory judgment requesting injunctive relief on the same basis.

STANDARD OF REVIEW

A preliminary objection in the nature of a demurrer is properly granted where the contested pleading is legally insufficient. *Cardenas v. Schober*, 783 A.2d 317, 321 (Pa.Super.2001) citing Pa.R.C.P. 1028(a)(4). A demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law. *Gekas v. Shapp*, 364 A.2d 691 (Pa. 1976). “Preliminary objections in the nature of a demurrer require the court to resolve the issues solely on the basis of the pleadings; no testimony or other evidence outside of the complaint may be considered to dispose of the legal issues presented by the demurrer.” *Cardenas* at 321–22. “[C]onclusions of law, unwarranted inferences from the facts, argumentative allegations or expressions of opinion” need not be accepted as true. *Myers v. Ridge*, 712 A.2d 791, 794 (Pa. Commw. 1998). “Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.” *League of Women Voters of Pennsylvania v. Commonwealth*, 692 A.2d 263, 267 (Pa. Commw. 1997). In order to sustain the demurrer, it is essential that the plaintiff’s complaint indicate on its face that his claim cannot be sustained, and the law will not permit recovery. *Id.*

DISCUSSION

Pennsylvania-American lodged preliminary objections requesting the Court dismiss the Amended Complaint for failure to state a claim against Pennsylvania-American for a violation of the non-compete provision in the Municipality Authorities Act or for civil conspiracy. Municipal Authority similarly lodged preliminary objections against the Amended Complaint for Plaintiff’s failure to state a claim upon which relief may be granted arguing that no violation of the Municipality Authorities Act has occurred; for legal insufficiency of the criminal conspiracy claim; for improper venue in the Court of Common Pleas of Fayette County; and for failing to plead an actionable claim for declaratory judgment.

The relevant portion of the Municipality Authorities Act at issue provides:

The purpose and intent of this chapter being to benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises, none of the powers granted by this chapter shall be exercised in the construction, financing, improvement, maintenance, extension or operation of any project or projects or

providing financing for insurance reserves which in whole or in part shall duplicate or compete with existing enterprises serving substantially the same purposes.

56 Pa.C.S.A. §5607(b)(2).

In its first preliminary objection, Pennsylvania-American posits that the Municipality Authorities Act applies only to municipal authorities and does not apply to it as a public utility. We note that the allegations at Count I – Injunctive Relief are lodged only against the Municipal Authority, however, Count III – Declaratory Judgment are filed against both Pennsylvania-American and Municipal Authority.

To maintain its action, Plaintiff North Fayette requests this Court to find that the Municipality Authorities Act prohibits competition between authorities, and not just as applied to private enterprises. In making this determination, the Court is required to interpret whether the non-compete portion of 56 Pa.C.S.A. §5607(b)(2) applies to the alleged actions occurring between these parties.

The purpose of Section 5607(b)(2) is to prohibit competition between authorities and private business due to the natural competitive advantages an authority has over a private enterprise. Accord, *Dominion Prod. & Servs., Inc. v. Pittsburgh Water & Sewer Auth.*, 44 A.3d 697, 703 (Pa. Commw. Ct. 2011). The plain language of the statute applies to “existing business.” We find that the Municipality Authorities Act does not preclude municipal authorities from competing with other municipal authorities. *Beaver Falls Mun. Auth. v. Mun. Auth. of the Borough of Conway*, 689 A.2d 379, 381 (Pa. Commw. Ct. 1997) (finding “the Act prohibits the establishment of duplicative or competitive projects, rather than municipal authorities.”). The plain language does not prohibit “duplicative” service. The duplication of services by more than one authority is not “competition” prohibited by the Municipality Authorities Act.

If North Fayette was permitted to proceed the result would be this Court binding Pennsylvania-American to continue service with North Fayette as the only provider ad infinitum, to the exclusion of any other provider. The causes of action in Plaintiff’s Amended Complaint are contrary to public policy proposing to Court mandate a continued contractual relationship and delegate all bargaining power to North Fayette as the only “approved” provider. The Amended Complaint is further contrary to the prior actions of North Fayette itself when it sent notice that it would renew the agreement with Pennsylvania-American upon its termination.

Upon this holding, North Fayette has failed to state any claim upon which relief can be granted as it has failed to sufficiently allege that the March 2015 agreement between Defendant Municipal Authority and Defendant Pennsylvania-American violated the Municipality Authorities Act. Accordingly, Plaintiff’s claims for civil conspiracy and declaratory judgment also fail upon Plaintiff’s failure to state a claim for which relief could be granted.

WHEREFORE, we will enter the following ORDER.

ORDER

AND NOW, this 7th day of September, 2018, upon consideration of the Preliminary Objections of Defendant Municipal Authority of Westmoreland County and Defendant Pennsylvania-American Water Company to the Amended Complaint of North Fayette County Municipal Authority, it is hereby ORDERED and DECREED that the Preliminary Objection for Plaintiff's failure to state a claim pursuant to the Municipality Authorities Act is SUSTAINED. It is further ORDERED and DECREED that the Amended Complaint is DISMISSED WITH PREJUDICE.

BY THE COURT:
NANCY D. VERNON, JUDGE

ATTEST:
Prothonotary

BENCH BAR CONFERENCE

Fayette County Bar Association
Bench Bar Conference

Schedule:

8:30 - Meet the Sponsors/Full Breakfast Buffet

9:00 - 12:15 - Seminar CLE Presentations

12:30 - Lunch

CLE Agenda to follow

Wednesday, October 10, 2018

The Historic Summit Inn

Cost to attend - \$75 members and \$125 non-members

RSVP to Cindy 724-437-7994 or cindy@fcbar.org

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