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NOTICE BY THE ADAMS COUNTY
CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following account with statements of proposed distribution filed therewith have been filed in the Office of Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County-Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts entering decrees of distribution on 02/17/2023 at 8:30 a.m.

KULP—Orphans' Court Action Number OC-167-2022. Petition for Adjudication/Statement of Proposed

Distribution. Estate of JOHN WESLEY KULP, late of Adams County, Pennsylvania.

Kelly A. Lawver
Clerk of Courts

2/3 & 2/10



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JULIE A. RITTER V. ELIAS N. LANGAS

1. On September 17, 2020, Wife filed a subsequent Complaint for no-fault divorce pursuant to 23 Pa. C.S.A. §§3301(c) and (d). No economic claims were raised. The Complaint was reinstated on December 23, 2020. Wife filed a Petition for Service by Publication with an Affidavit of Diligent Search. Based upon Wife's Petition and her accompanying Affidavit, the Court entered an Order on December 30, 2020 permitting Wife to serve Husband with the complaint via publication in the Adams County Legal Journal and a newspaper of general circulation within Adams County.

2. In her Affidavit of Diligent Search, Wife indicated that she had little to no contact with Husband for eleven years and that the only person she attempted to contact regarding Husband's address was Husband's sister. Wife admitted that she knew Nick stayed with Husband for some period of time after the marital residence was sold. Wife admitted that she did not inquire of Nick if he knew where Husband was residing.

3. It is clear from the record that Nick knew where Husband was living in West Virginia at the time Wife conducted her search. By neglecting to make any inquiry of Nick at all, Wife failed to make a truly diligent effort to locate Husband as required by Pa. R.C.P. No. 430.

4. Wife's failure to make a good faith search for Husband by inquiring of the parties' son fraudulently kept Husband in ignorance of the divorce action, thereby preventing a fair submission of the controversy. Accordingly, the attached Order is entered vacating the Decree.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, 20-S-787, JULIE A. RITTER V. ELIAS N.
LANGAS

Katrina M. Luedtke, Esquire, Attorney for Plaintiff

Daniel S. Topper, Esquire, Attorney for Defendant

Simpson, J., March 28, 2022

OPINION

The parties (hereinafter "Wife" and "Husband", respectively) were divorced by Decree dated August 17, 2021. Husband filed a Petition to Vacate Divorce Decree on October 21, 2021. Wife filed an Answer to Ex-Husband's Petition to Vacate Divorce Decree and Request for Counsel Fees on November 12, 2021. An evidentiary hearing was held on January 19, 2022. Briefs were timely filed. Wife subsequently withdrew her request for counsel fees. For the reasons set forth below, Husband's Petition to Vacate Decree will be granted.

GENERAL BACKGROUND

The parties were married on October 13, 1991. The parties separated in 2010 when Wife moved out of the marital residence, located

at 971 McGlaughlin Road in Fairfield. Wife initiated a divorce action in 2010¹ which was dismissed due to inactivity by Order dated November 24, 2014. On September 17, 2020, Wife filed a subsequent Complaint for no-fault divorce pursuant to 23 Pa. C.S.A. §§3301(c) and (d). No economic claims were raised. The Complaint was reinstated on December 23, 2020. Wife filed a Petition for Service by Publication with an Affidavit of Diligent Search. Based upon Wife's Petition and her accompanying Affidavit, the Court entered an Order on December 30, 2020, permitting Wife to serve Husband with the complaint via publication in the Adams County Legal Journal and a newspaper of general circulation within Adams County. **Pa. R.C.P. No. 430**. After all documents required by §3301(d) were served on Husband via publication, the Court granted a Decree in Divorce dated August 17, 2021, on the ground of irretrievable breakdown under §3301(d).

Husband testified that he had no knowledge that Wife filed a Complaint in 2020 and, if he had known, he would have raised economic claims. He stated that he only discovered that the Decree had already been entered when he decided to file for divorce himself and secured legal counsel to assist him.

DISCUSSION

“A motion to vacate a decree or strike a judgment alleged to be void because of extrinsic fraud, lack of jurisdiction over the subject matter or a fatal defect apparent upon the face of the record must be made within five years after the entry of the final decree.” **23 Pa. C.S.A. §3332**. The Pennsylvania Superior Court has defined the term “extrinsic fraud” as “some act or conduct of the prevailing party which has prevented a fair submission of the controversy. Among these are the keeping of the defeated party away from court by false promise of compromise, or fraudulently keeping him in ignorance of the action.” *Fenstermaker v. Fenstermaker*, 502 A.2d 185, 188 (Pa. Super. 1992)(citations omitted).

Husband testified that the parties separated in 2010 and subsequently reconciled for a brief period from January 10, 2019, through approximately August 22, 2019. They maintained separate residences and spent time together at both places. Wife adamantly denied that a

¹ Docketed at 2010-SU-902.

reconciliation occurred but admitted that she stayed with Husband at the former marital residence on or about July 4, 2019, when they jointly tended to their adult son, Nicholas Langas (“Nick”), who was experiencing mental health difficulties at the time. During this time, a sheriff’s sale was pending for the former marital residence, which was known to both parties. The residence was ultimately sold in September 2019. Wife was aware of the sale. As a result, Husband relocated to his current address, 98 Hardy Drive, Wardensville, West Virginia in September or October of 2019. He testified that he has lived exclusively at this address since that time and that Nick moved in with him in 2020 after he was released from incarceration. This is the same address where Husband’s Mother resided and received mail during the parties’ marriage. Wife acknowledged that she was aware of this address because she mailed holiday and birthday cards to Husband’s Mother at various times during the parties’ marriage. She testified that she stopped sending cards sometime in 2008 or 2010 and that Husband’s Mother moved several times during the parties’ marriage. Husband testified that he informed Wife that he was moving to 98 Hardy Drive when the sheriff’s sale was pending. Wife testified that Husband never gave her this information and she had no knowledge of his location after he moved from the former marital residence.

Approximately one year after the sheriff’s sale of the former marital residence, Wife filed her divorce complaint and attempted to serve Husband at the former marital residence via certified mail, restricted delivery, which was returned, marked by the U.S. Postal Service as “unclaimed” and “unable to forward”². This caused Wife to file a Petition for permission to serve the Complaint by publication. See, **Pa. R.C.P. No. 430**. Accompanying Wife’s Petition was an “Affidavit of Diligent Search”, stating the nature and extent of the investigation which Wife made to determine Husband’s whereabouts and the reasons why service could not be made. *Id.* The applicable rule offers the following guidance regarding the requirements of a reasonably diligent search:

An illustration of a good faith effort to locate the defendant includes (1) inquiries of postal authorities including inquiries pursuant to the Freedom of Information Act, 39 C.F.R. Part 265, (2) **inquiries of relatives**, neighbors,

² Husband testified that he had his mail forwarded to 98 Hardy Drive.

friends, and employers of the defendant, (3) examinations of local telephone directories, courthouse records, voter registration records, local tax records, and motor vehicle records, and (4) a reasonable internet search.

Pa. R.C.P. No. 430 (emphasis added).

In her Affidavit of Diligent Search, Wife indicated that she had little to no contact with Husband for eleven years and that the only person she attempted to contact regarding Husband's address was Husband's sister. Wife admitted that she knew Nick stayed with Husband for some period of time after the marital residence was sold. Wife admitted that she did not inquire of Nick if he knew where Husband was residing. Wife testified that Nick suffers from drug addiction and mental health diagnoses that make him an unreliable and untruthful source of information, thus she assumed that he would not provide the correct information regarding Husband's whereabouts. She testified that Nick had a transient lifestyle and was "being shady" about where he was living.

Still, it is only logical and reasonable that Wife could have, and should have inquired to Nick regarding Husband's whereabouts, as he is a relative and she knew that he had stayed with Husband for some period of time after Husband moved from the marital residence. It is clear from the record that Nick knew where Husband was living in West Virginia at the time Wife conducted her search. By neglecting to make any inquiry of Nick at all, Wife failed to make a truly diligent effort to locate Husband as required by **Pa. R.C.P. No. 430**. Whether Nick would have been truthful or not in his response to that inquiry is irrelevant, because making the inquiry would have satisfied Wife's duty to make a good faith query for information regarding Husband's whereabouts.

It is well settled that a party's knowledge and concealment of the other party's address when seeking service of legal proceedings by publication, constitutes fraud. *Cortese v. Cortese*, 63 A.2d 420 (Pa. Super. 1949). (Evidence of husband's knowledge of residence of wife's relatives and of his contacts with wife, her relatives and her attorney prior to and pending divorce action, where service was by publication, established fraudulent concealment of knowledge of wife's address so as to deprive wife of notice of proceedings, and required that divorce decree be set aside by reviewing court.) It is

reasonable to conclude that Wife could have discovered Husband's location if she had performed a good faith search, which, pursuant to the facts of this case, mandated an inquiry to the parties' son. Wife's omission in this regard invalidates her affidavit of diligent search, leaving the requirements of Pa. R.C.P. No. 430 unsatisfied. Wife's failure to make a good faith search for Husband by inquiring of the parties' son fraudulently kept Husband in ignorance of the divorce action, thereby preventing a fair submission of the controversy.

Accordingly, the attached Order is entered vacating the Decree.

ORDER OF COURT

AND NOW, this 28th day of March 2022, in accordance with the attached Opinion, it is ORDERED that the Divorce Decree dated August 17, 2021, is VACATED.

ESTATE NOTICES

NOTICE IS HEREBY GIVEN that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary of or 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 DOUGLAS D. DAUGHERTY, DEC'D**

Late of Berwick Township, Adams County, Pennsylvania

Executor: Seth T. Daugherty, c/o Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 119A West Hanover Street, Spring Grove, PA 17362

Attorney: Craig A. Diehl, Esq., CPA, Law Offices of Craig A. Diehl, 119A West Hanover Street, Spring Grove, PA 17362

ESTATE OF JIMMY JOE HAAS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: James Christopher Haas, c/o Kirk E. Mentch, Esq., Mentch Law, P.O. Box 5, Carlisle, PA 17013

Attorney: Kirk E. Mentch, Esq., Mentch Law, P.O. Box 5, Carlisle, PA 17013

ESTATE OF RONALD J. HAGARMAN, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Patricia K. Hagarman, 105 Paul Street, Hanover, PA 17331; Michelle Marie Hagarman, P.O. Box 8535, Jacksonville, FL 32239; Peter D. Hagarman, 330 Main Street, McSherrystown, PA 17344

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

ESTATE OF ALICE H. HEEFNER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Attorney: Forest Myers, Esq., 137 Park Place West, Shippensburg, PA 17257

ESTATE OF JOYCE ELAINE HIPPENSTEEL, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Administrator: Donald H. Hippensteel, c/o Sharon E. Myers, Esq., CGA Law Firm, PC, Box 606, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., CGA Law Firm, PC, Box 606, East Berlin, PA 17316

ESTATE OF MARYANNA B. MARTIN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Douglas A. Martin, 925 Harney Road, Littlestown, PA 17340; Lauren A. Swomley, 305 North Stratton Street, Gettysburg, PA 17325

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

ESTATE OF C. DAVID REDDING a/k/a CARROLL DAVID REDDING, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Donald P. Miller, 185 Miller Road, Gettysburg, PA 17325; Edward H. Wilkinson, 880 Old Carlisle Road, Aspers, PA 17304

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

ESTATE OF RICHARD J. SMITH a/k/a RICHARD JOSEPH SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Gary J. Smith, 9 Chinkapin Drive, New Oxford, PA 17350

Attorney: Amy E.W. Ehrhart, Esq., 118 Carlisle Street, Suite 202, Hanover, PA 17331

ESTATE OF JAMES L. STIPE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Abbie K. Stipe 825 West Middle Street, Hanover, PA 17331

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

ESTATE OF MARTHA LUCILLE WRIGHT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administrator: Francis John Konzal, 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

SECOND PUBLICATION**ESTATE OF RAY E. CLABAUGH, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Linda K. Clabaugh, c/o Scott A. Ruth, Esq., 123 Broadway, Hanover, PA 17331

Attorney: Scott A. Ruth, Esq., 123 Broadway, Hanover, PA 17331

ESTATE OF BARBARA ANN GREEN, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Norman M. Green Jr., 709 Hilltop Drive, New Cumberland, PA 17070

ESTATE OF NORMAN MARSHAL GREEN SR., DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Norman M. Green Jr., 709 Hilltop Drive, New Cumberland, PA 17070

ESTATE OF THOMAS E. GROFT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Theresa M. Groft, 2350 Storm Store Road, New Oxford, PA 17350

ESTATE OF KATHRYN M. MYERS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executor: Douglas Glenn Myers, c/o Marci S. Miller, Esq., Gibbel Kraybill & Hess LLP, P.O. Box 5349, Lancaster, PA 17606

Attorney: Marci S. Miller, Esq., Gibbel Kraybill & Hess LLP, P.O. Box 5349, Lancaster, PA 17606

ESTATE OF ZACHARY THOMAS ROBERTSON, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrix: Darlene Faye Robertson, c/o Todd A. King, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Todd A. King, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF VIRGINIA ROSENBERY, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrix: Tammy Wolf, 590 Iron Springs Road, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby Law Office, P.O. Box 215, Fairfield, PA 17320

ESTATE OF DAVID E. SENESEY, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Executrix: Lois M. Smeak, 31 Filbert Street, Hanover, PA 17331

Attorney: Matthew L. Guthrie, Esq., Barley Snyder LLP, 14 Center Square, Hanover, PA 17331

SECOND PUBLICATION CONTINUED

ESTATE OF ROBERT E. TAUBENSEE,
DEC'D

Late of Mt. Joy Township, Adams
County, Pennsylvania

Executrix: Barbara Jo Entwistle, c/o
Entwistle & Roberts, PC, 37 West
Middle Street, Gettysburg, PA
17325

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

THIRD PUBLICATION

ESTATE OF JACK COX, DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Executrix: Jennifer Hook, 154 Hull
Street, Hingham, MA 02043

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

ESTATE OF ANN F. EICHOLTZ a/k/a
ANN FORTENBAUGH EICHOLTZ,
DEC'D

Late of Oxford Township, Adams
County, Pennsylvania

Personal Representatives: Susan E.
Pryon, 425 College Avenue,
Gettysburg, PA 17325; Robert F.
Eicholtz, 503 Charles Street
Avenue, Towson, MD 21204

Attorney: Teeter Law Office, 108 West
Middle Street, Gettysburg, PA 17325

ESTATE OF GERALD R. PENOR, DEC'D

Late of the Borough of Gettysburg,
Adams County, Pennsylvania

Executrix: Deborah K. Hoy, 1140
Orrtanna Road, Orrtanna, PA 17353

ESTATE OF THOMAS B. SCHEIVERT
a/k/a THOMAS BRUCE SCHEIVERT,
DEC'D

Late of Cumberland Township, Adams
County, Pennsylvania

Executor: Jeremy Scheivert, 51 S. 4th
Street, 1A, Hamburg, PA 19526

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

ESTATE OF GLORIA J. SPINDLER,
DEC'D

Late of Germany Township, Adams
County, Pennsylvania

Administratrix: Nyssa Y. Lenzini, 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 GERALD B. THOMAN,
DEC'D

Late of Conewago Township, Adams
County, Pennsylvania

Executor: Steven G. Thoman, 4521
Pinchtown Road, Dover, PA 17315

Attorney: Matthew L. Guthrie, Esq.,
Barley Snyder LLP, 14 Center
Square, Hanover, PA 17331

ESTATE OF KATHLEEN D. WEAVER,
DEC'D

Late of the Borough of McSherrystown,
Adams County, Pennsylvania

Shannon Marie Appleman and Lori
Ann Ziolkowski, c/o Ann C. Shultis,
Esq., Salzmann Hughes, P.C., 1147
Eichelberger Street, Suite F,
Hanover, PA 17331

Attorney: Ann C. Shultis, Esq.,
Salzmann Hughes, P.C., 1147
Eichelberger Street, Suite F,
Hanover, PA 17331