

Adams County Legal Journal

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IN THIS ISSUE

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VS. BRIAN J. KIPE, SHERI A. KIPE, CLIFTON A. KIPE,
PAULINE M. KIPE, LEON G. HARBAUGH
AND RUTH M. HARBAUGH

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IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA

Action in Divorce Case No. 2020-S-797

Julie A. Ritter v. Elias N. Langas

Notice to Defend and Claim Rights

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take prompt action. You are warned that if you fail to do so, the case may proceed without you and a decree of divorce or annulment may be entered against you by the Court. A judgment may also be entered against you for any other claim or relief requested in these papers by the Plaintiff. You may lose money or property or other rights important to you, including custody or visitation of your children.

When the ground for the divorce is indignities or irretrievable breakdown of the marriage, you may request marriage counseling. A list of marriage counselors is available in the Office of the Prothonotary at the Adams County Courthouse, 111 Baltimore Street, Gettysburg, Pennsylvania.

IF YOU DO NOT FILE A CLAIM FOR ALIMONY, DIVISION OF PROPERTY, LAWYER'S FEES OR EXPENSES BEFORE A DIVORCE OR ANNULMENT IS GRANTED, YOU MAY LOSE THE RIGHT TO CLAIM ANY OF THEM.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Adams County Court Administrator's Office Adams County Courthouse Gettysburg, Pennsylvania, 17325 Telephone: 717-337-9846

Aviso Para Defender Y Reclamar Derechos

USTED HA SIDO DEMANDADO EN LA CORTE. Si desea defenderse de las quejas defiende, el caso puede proceder sin usted y decreto de divorcio o

anulamiento puede ser emitido en su contra por la Corte. Una decision puede tambien ser emitida en su contra por cualquier otra queja o compensacion reclamados por el demandante. Usted puede perder dinero, o propiedades u otros derechos importantes para usted.

Cuando la base para el divorcio es indignidades o rompimiento irreparable del matrimonio, usted puede solicitar consejo matrimonial. Una lista de consejeros matrimoniales esta disponible en la oficina del Prothonotary, en la Adams County Court of Common Pleas, 111 Baltimore Street, Gettysburg, Pennsylvania.

SI USTED NO RECLAMA PENSION ALIMENTICIA, PROPIEDAD MARITAL, HONORARIOS DE ABOGADO U OTROS GASTOS ANTES DE QUE EL DECRETO FINAL DE DIVORCIO O ANULAMIENTO SEA EMITIDO, USTED PUEDE PERDER EL DERECHO A RECLAMAR CUALQUIERA DE ELLOS.

USTED DEBE LLEVAR ESTE PAPEL A UN ABOGADO DE INMEDIATO. SI NO TIENE O NO PUEDE PAGAR UN ABOGADO, VAYA O LLAME A LA OFICINA INDICADA ABAJO PARA AVERIGUAR DONDE PUEDE OBTENER ASISTENCIA LEGAL.

Adams County Court Administrator's Office Adams County Courthouse Gettysburg, Pennsylvania, 17325 Telephone: 717-337-9846

In the Court of Common Pleas of Adams County, Pennsylvania

Julie A. Ritter v. Elias N. Langas, Case No. 2020-S-797, Action in Divorce

Complaint in Divorce under Section 3301(c) or Section 3301(d) of the Divorce Code

Filed on September 17, 2020 and reinstated on December 23, 2020.

1/29

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 02/12/2021 at 8:30 a.m.

STEWART—Orphans' Court Action Number – 63 of October term 1963 (OC-115-2020). Trust Under Deed of Dr. Henry Stewart, known as Salome M. Stewart Memorial Fund, 2nd Partial Account, Petition for Adjudication/Statement of Proposed Distribution, Estate of HENRY STEWART, late of Adams County, Pennsylvania.

LEBO—Orphans' Court Action Number OC-18-2017. Petition for Adjudication/Statement of Proposed Distribution of Amy Lebo, Estate of MICHAEL ALAN LEBO, late of Adams County, Pennsylvania.

SCHMIDT—Orphans' Court Action Number OC-122-2020. First and Final Account of Thelma Steiger, Executrix of Estate of EILEEN M SCHMIDT, late of Liberty Township, Adams County, Pennsylvania.

WAGNER—Orphans' Court Action Number OC-129-2020. First and Final Account of Robin Wagner Birkner, Estate of HENRY JOSEPH WAGNER, late of Adams County, Pennsylvania.

Kelly A. Lawver Clerk of Courts

1/29 & 2/5

RICHARD L. GLADHILL, JR. AND WILLIAM CRAIN
VS. BRIAN J. KIPE, SHERI A. KIPE, CLIFTON A. KIPE,
PAULINE M. KIPE, LEON G. HARBAUGH
AND RUTH M. HARBAUGH

1. Plaintiffs challenge the entry of compulsory nonsuit claiming the existence of sufficient evidence to support the cause of action. Plaintiffs, however, do not cite any specific evidence establishing the sufficiency of their claim nor have requested a transcript of the proceedings in order to enable the Court to dispose of the motion as required by Pa. R. Civ. P. 227.3 (relating to transcript of testimony). Rather, their Motion for Post-Trial Relief is a general boilerplate allegation lacking any specificity.

2. Pa. R. Civ. P. 227.1(b)(2) instructs that post-trial relief may not be granted unless the grounds for the motion are specified in the motion.

3. Plaintiff's lack of specificity is further aggravated by the failure to produce a trial transcript with citation to the elements of the cause of action allegedly established. Accordingly, Plaintiff's claim is waived.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,
PENNSYLVANIA, 2019-SU-175, RICHARD L. GLADHILL, JR.
AND WILLIAM CRAIN VS. BRIAN J. KIPE, SHERI A. KIPE,
CLIFTON A. KIPE, PAULINE M. KIPE, LEON G. HARBAUGH
AND RUTH M. HARBAUGH

Matthew E. Teeter, Esq., Attorney for Plaintiffs

Matthew R Battersby, Esq., Attorney for Defendants Kipe

Todd A. King, Esq., Attorney for Defendants Harbaugh

George, P. J., December 30, 2020

OPINION

In this litigation, Richard Gladhill, Jr. and William Crain (collectively "Plaintiffs") seek a declaratory judgment against Brian Kipe, Sheri Kipe, Clifton Kipe, Pauline Kipe, Leon Harbaugh, and Ruth Harbaugh (collectively "Defendants") asking the Court to recognize the existence of a 33-foot wide right-of-way and enjoin Defendants from interfering with Plaintiffs' use of the right-of-way.¹

¹ The Complaint does not identify the location of the sought-after right-of-way other than indicating that an existing ten-foot wide cartway is "located within the thirty-three-foot road or right-of-way." Plaintiffs' Complaint, paragraph 41. A view of the property by the Court revealed the existing cartway generally runs along the border between the Plaintiffs' property and several of the Defendants' properties. Plaintiffs neither presented, nor appear to have obtained, a survey identifying the precise location of the requested right-of-way. Rather, they rely upon a 2008 survey which was prepared as part of a subdivision of the Kipes' property. The 2008 survey does not include a metes and bounds description of the location of the requested right-of-way other than to depict the existing cartway as running generally along the property line between Plaintiffs' and Defendants' property.

After non-jury trial, the Court entered a compulsory non-suit in favor of Defendants pursuant to Pa. R. Civ. P. 230.1. Plaintiffs have filed a Motion for Post-Trial Relief seeking new trial or, in the alternative, amending this Court's Order to remove findings of fact concerning the width and location of the existing right-of-way.² For the reasons set forth below, the Motion for Post-Trial Relief is denied.

Initially, Plaintiffs challenge the entry of compulsory nonsuit claiming the existence of sufficient evidence to support the cause of action. Plaintiffs, however, do not cite any specific evidence establishing the sufficiency of their claim nor have requested a transcript of the proceedings in order to enable the Court to dispose of the motion as required by Pa. R. Civ. P. 227.3 (relating to transcript of testimony). Rather, their Motion for Post-Trial Relief is a general boilerplate allegation lacking any specificity.³

Pa. R. Civ. P. 227.1(b)(2) instructs that post-trial relief may not be granted unless the grounds for the motion are specified in the motion. In considering a substantially similar request for post-sentence relief, the Pennsylvania Supreme Court found such claims are waived as not properly raised. *Paul v. Lankenau Hospital*, 569 A.2d 346, 349 (Pa. 1990). In doing so, the Court cited with approval the explanatory comment to Rule 227.1 as follows:

² Defendants Kipe seek to quash Plaintiffs' Motion for Post-Trial Relief on the basis of timeliness. Pa. R. Civ. P. 227.1(c) (requiring the filing of post-trial motions within ten days after notice of the filing of the decision in the case of a trial without jury). The Court's Order directing entry of nonsuit was dated October 26, 2020 and filed of record October 27, 2020. The docket reflects notice of the Order was not forwarded by the Prothonotary's Office to the parties until October 28, 2020. The ten-day period for filing post-trial motions does not commence until the Prothonotary sends notice of the decision to the parties. *U.S. Bank, N.A. v. Pautenis*, 118 A.3d 386, 390 (Pa. Super. 2015). Although ten days thereafter expired on November 7, 2020, the filing offices were closed as November 7, 2020 falls on a weekend. Plaintiffs filed their Motion for Post-Trial Relief on November 9, 2020. Post-trial motions filed on a Monday are deemed as having been filed within the ten-day period for post-trial motions where the tenth day falls on a Saturday. *Id.* at 391. Plaintiffs' Post-Trial Motion is therefore timely.

³ Plaintiffs' Motion for Post-Trial Relief reads: "[a] consideration of the facts in the light most favorable to Plaintiffs, including acceptance as true all evidence supporting Plaintiffs' contentions in this matter and a rejection of all adverse testimony, does not support the decision of the Court to grant Defendants' Motion for Directed Verdict." Plaintiffs' Motion for Post-Trial Relief, paragraph 4.

Subdivision (b)(2) specifies the requisites of the motion for post-trial relief. It must state the specific grounds for the relief sought and “how the grounds were asserted in pre-trial proceedings or at trial.”

...

In requiring the motion to state the specific grounds therefore, motions which set forth mere “boilerplate” language are specifically disapproved. A post-trial motion must set forth the theories in support thereof “so that the lower court will know what it is being asked to decide.” *Frank v. Peckich*, 257 Pa. Super. 561, 391 A.2d 624, 632-633 (1978).

Rule 227.1, comment. Plaintiffs’ lack of specificity is further aggravated by the failure to produce a trial transcript with citation to the elements of the cause of action allegedly established. Accordingly, Plaintiffs’ claim is waived.

Plaintiffs next take issue with what they describe as the Court’s “finding of fact” as to the existence of a ten-foot wide private road at the location of the existing cartway. They further argue that the Court erred in limiting the width of the right-of-way to ten feet suggesting, without any reference to admissions in the pleadings or evidence at trial, that the private road, “at minimum, is wide enough for two cars to pass.” Plaintiffs’ claim not only mischaracterizes the Court’s Order but also is nonsensical as it appears contrary to Plaintiffs’ interests.

In addressing this issue, it is important to frame the discussion in the context of Plaintiffs’ Complaint. Plaintiffs requested the Court to enter a declaratory judgment identifying a 30-foot wide right-of-way for Plaintiffs’ use. Plaintiffs, however, have not provided any clear indication of the precise location of the right-of-way. At conclusion of Plaintiffs’ case, the Court denied their request finding the lack of any factual basis for the same. In doing so, and contrary to Plaintiffs’ claim as to the existence of factual findings, the Court noted that denial of Plaintiffs’ cause of action did not affect their right to ingress and egress over a ten-foot wide existing cartway. Incidentally, the cartway is one which Plaintiffs identified as currently existing in

their Complaint,⁴ pre-trial conference memorandum,⁵ and trial evidence.⁶ Based upon this evidence, the Court's Order did not "limit the size of the cartway" but rather preserved Plaintiffs' access to their property in light of the Court's denial of their request to identify the existence of a larger private road. Arguably, had the Court simply denied Plaintiffs' request to declare the existence of a private road without preserving the right to ingress and egress across an established cartway, their right to travel the established cartway might very well be in jeopardy. In essence, the Court's Order did nothing more than preserve Plaintiffs' right to utilize a cartway established by Plaintiffs' own evidence while finding trial evidence insufficient to grant them any greater rights.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 30th day of December, 2020, Plaintiffs' Motion for Post-Trial Relief is denied in its entirety. The Adams County Prothonotary's Office is directed to enter judgment as set forth in the Order of Court dated October 26, 2020.

⁴ Plaintiffs' Complaint, paragraph 41

⁵ The final paragraph of page 2 of Plaintiffs' Pre-Trial Conference Memorandum reads: "Plaintiffs point to a 1991 survey which refers to the visible cartway as "+/-10' Wide Private Road" as proof of the location and extent of the right-of-way.

⁶ Plaintiffs' Exhibit 16

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 KATHERINE L. AMBROSE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Co-Executrices: Carolyn D. Wagaman, 110 Spring Creek Circle, Gettysburg, PA 17325; Kathy Ambrose Foster, 20257 Ordinary Place, Ashburn, VA 20147

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

ESTATE OF JOHN ROBERT GRADY, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Dale Kenneth Smith, 4021 North Second Street, Harrisburg, PA 17110; Bernard A. Yannetti, Jr., 994 Knoxlyn Road, Gettysburg, PA 17325

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

ESTATE OF JEANNE MARIE McNAMARA a/k/a JEANNE M. McNAMARA, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania

Executor: Maria Nunez Henry, c/o R. Thomas Murphy, Esq., R. Thomas Murphy & Associates, P.C., 2005 East Main Street, Waynesboro, PA 17268

Attorney: R. Thomas Murphy, Esq., R. Thomas Murphy & Associates, P.C., 2005 East Main Street, Waynesboro, PA 17268

ESTATE OF EDITH M. MIELE, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Madlyn Cathcart, 80 Main Street, Apt. A31, McSherrystown, PA 17344

Attorney: John J. Murphy III, Esq., Patrono & Murphy, LLC, 28 West Middle Street, Gettysburg, PA 17325

ESTATE OF JOANN M. MUSSELMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Richard J. Musselman, 7634, Route 235, Thompsontown, PA 17094

ESTATE OF JOHN KENYON WEITZEL a/k/a JOHN K. WEITZEL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Douglas N. Weitzel, 1108 Futurity Street, Frederick, MD 21702

Attorney: Robert L. McQuaide, Esq., Barley Snyder, Suite 101, 123 Baltimore Street, Gettysburg, PA 17325

SECOND 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

THIRD 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

THIRD PUBLICATION CONTINUED

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

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

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 request-
ed to make payment without delay and
those having claims against the same,
shall make them known to the



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