

# *Adams County* **Legal Journal**

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## **IN THIS ISSUE:**

IN RE: DONALD F. TOFT, JR., DECEASED

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CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on June 30, 2023, Jessica Lynn Matthews filed a petition for name change in the Court of Common Pleas of Adams County, Pennsylvania requesting a decree to change the name of the minor, Patricia Emily Wadsworth to Patricia Emily Berkey. The court has affixed September 22, 2023, 10:00 a.m., in courtroom #4, third floor of the Adams County Courthouse as the time and place for the hearing of said petition, when and where all persons interested may appear and show cause, if any they have, why the petition should not be granted.

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IN RE: DONALD F. TOFT, JR., DECEASED

1. The standard of proof for removal of executrix requires clear and convincing evidence and a substantial reason for removal.
2. There was no competent evidence presented that Kathleen breached her fiduciary duty to Decedent while acting as agent under the power of attorney.
3. Petitioners have presented no evidence to support their position that Kathleen violated her fiduciary duty to Decedent by writing checks and providing money to Kobie and Marie which Decedent did not authorize.
4. The evidence and testimony clearly support Decedent's intent in providing three separate gifts to Kathleen totaling \$30,500.00. Kathleen did not write these checks to herself from Decedent's account in her role as power of attorney.
5. This Court finds that the compensation set forth in the Account for Kathleen as Executrix in the amount of \$34,987.34, under the circumstances, is reasonable and just.
6. An Attorney is entitled to reasonable compensation based on services rendered to an estate but he also bears the burden of proof as to the reasonableness of the fees requested.
7. Given the nature of the estate, the antagonistic relationship between Petitioners and Executrix, and the pending litigation, this Court finds that Attorney Meyers' fees are more than reasonable, given her expertise as an estate attorney coupled with the work she performed.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,  
PENNSYLVANIA, 0C-3-2020, IN RE: ESTATE OF DONALD F.  
TOFT, JR., DECEASED

Justin A. Tomevi, Esq., EmmaRose Strohl, Esq., and Katelyn E.  
Rohrbaugh, Esq., Attorneys for Petitioners  
James F. Mannion, Esq., Attorney for Respondent  
Wagner, J., July 21, 2023.

## OPINION

Before this Court for decision is Petitioners' Amended Petition for Removal of Executrix and Petitioners' Objections to Account. For the reasons set forth herein, Petitioners' Petitions are hereby denied.

### FINDINGS OF FACT

1. Donald F. Toft, Jr. (hereinafter "Decedent"), a resident of Adams County, Pennsylvania, died on October 18, 2019.
2. Decedent's wife, Joanne Toft (hereinafter "Mrs. Toft") died on September 3, 2018.
3. Decedent is survived by children James Toft (hereinafter "Jim"), Petitioner Robert F. Toft (hereinafter "Bob"), Petitioner Donald P. Toft (hereinafter "Don") and Respondent/Executrix Kathleen Toft (hereinafter "Kathleen").
4. Jim (not a party to this litigation) resides in Midlothian, Virginia.
5. Don resides in Morristown, New Jersey. Don would visit his parents at Cross Keys Village several times a year.
6. Bob resides in Frederick, Maryland. Bob would visit his parents at Cross Keys Village approximately every two weeks.
7. Kathleen currently resides in Midlothian, Virginia. She was employed at Gettysburg Hospital as a registered nurse from 2013 through Decedent's death. Kathleen resided in the Gettysburg area. Kathleen visited her parents at Cross Keys Village approximately three times a week. These visits increased when her parents were suffering from serious medical issues.
8. Decedent and Mrs. Toft (hereinafter "the Tofts") moved to the Gettysburg area in 2014 from Frederick, Maryland.<sup>1</sup>

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<sup>1</sup> 1/27/23 N.T. 13, 85 (Don).

They did so because of Mrs. Toft's Alzheimer's diagnosis and the anticipated need for additional supportive care as they continued to age.<sup>2</sup> The Tofts elected to move to Cross Keys Village, a continuing care retirement community in New Oxford, Adams County, Pennsylvania in order to be close to Kathleen, a Registered Nurse at Gettysburg Hospital Emergency Department.<sup>3</sup>

10. [sic] The Tofts executed powers of attorney in 1997 naming each other as agent, with Kathleen as successor.<sup>4</sup> Decedent executed a new power of attorney on February 28, 2017 (the "2017 POA"), naming Kathleen as agent.<sup>5</sup> The 2017 POA was drafted by Nancy Meyers, Esq. ("Attorney Meyers"), an estate planning attorney in Chambersburg at Salzmann Hughes, P.C.<sup>6</sup> Attorney Meyers testified:

... [Mr. Toft] loved that Kathleen had the skills and the background in the medical field because his wife was ailing at that point. So, he felt that she had the requisite level of knowledge around that. Geography was a concern to him a bit. But, also, he knew that she would be selfless is really how he describes it, that she was somebody who was always thinking of others and that's why he wanted to name her.<sup>7</sup>

11. When the Tofts entered Cross Keys Village in 2014 they moved into a 2-bedroom apartment in the independent living section.<sup>8</sup> The Tofts were assisted by companions through "Visiting Angels," a care agency.<sup>9</sup> The Tofts became very close to a particular companion, Kobie Byers (hereinafter

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<sup>2</sup> 1/27/23 N.T. 13, 85 (Don).

<sup>3</sup> 1/27/23 N.T. 13, 84-85 (Don); 201 (Kathleen).

<sup>4</sup> 1/27/23 N.T. 163 (Kathleen); Ex. P-22.

<sup>5</sup> 3/3/23 N.T. 9 (Attorney Meyers); Ex. A-2.

<sup>6</sup> 3/3/23 N.T. 7, 9 (Attorney Meyers).

<sup>7</sup> 3/3/23 N.T. 10 (Attorney Meyers).

<sup>8</sup> 1/27/23 N.T. 13 (Don); 203 (Kathleen).

<sup>9</sup> 1/27/23 N.T. 36 (Don); 204 (Kathleen).

“Kobie”), with Bob describing that his parents “really, really loved Kobie and were happy to have her as a caregiver.”<sup>10</sup> Decedent later hired and paid Kobie privately.<sup>11</sup> Kathleen kept records of the time Kobie worked and Kobie was paid \$17.00 per hour.<sup>12</sup>

12. In January 2016, Decedent suffered a stroke affecting his right side and was hospitalized; he subsequently returned to his apartment.<sup>13</sup> Decedent thereafter had difficulty writing, and asked others to assist him by writing out checks for him, including Bob, Bob’s wife Rachel, Kathleen, Kobie, and Marie Marsh (hereinafter “Marie”), Mrs. Toft’s sister.<sup>14</sup>
13. Decedent gave Kobie money in addition to her compensation for hours worked. Bob wrote two checks to Kobie on behalf of Decedent totaling \$4,000.00 between January 2016 and February 2017.<sup>15</sup> Bob described the checks as a “red flag” and expressed his concern about them to Decedent, but Bob determined it was what Decedent wanted to do.<sup>16</sup> When Bob told Decedent that Kobie shouldn’t be around if she is asking for money, Decedent replied “Your mother likes her too much.”<sup>17</sup> Decedent also said he “would be quite put out if anything was done to make Kobie’s life more difficult.”<sup>18</sup> Bob’s wife Rachel also wrote a \$1,500.00 check to Kobie on behalf of Decedent under similar circumstances.<sup>19</sup>
14. Mrs. Toft’s Alzheimer’s worsened, and in March 2017 she moved to the memory care unit within Cross Keys Village.<sup>20</sup> Not wanting to be separated from his wife, Decedent elected

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<sup>10</sup> 1/27/23 N.T. 137 (Bob).

<sup>11</sup> 1/27/23 N.T. 37-38 (Don); 126-27, 147 (Bob); 219 (Kathleen).

<sup>12</sup> 1/27/23 N.T. 219 (Kathleen).

<sup>13</sup> 1/27/23 N.T. 15-17, 91 (Don); 137 (Bob); 206 (Kathleen).

<sup>14</sup> 1/27/23 N.T. 91 (Don); 178, 211, 234 (Kathleen).

<sup>15</sup> 1/27/23 N.T. 138 (Bob).

<sup>16</sup> 1/27/23 N.T. 138-40 (Bob).

<sup>17</sup> 1/27/23 N.T. 139 (Bob).

<sup>18</sup> 1/27/23 N.T. 145 (Bob).

<sup>19</sup> 1/27/23 N.T. 140 (Bob).

<sup>20</sup> 1/27/23 N.T. 12-13 (Don).

to move to an adjoining room in the memory care unit as well, despite that he did not require memory care.<sup>21</sup> Mrs. Toft died September 3, 2018; Kathleen was the only child with Mrs. Toft at her death.<sup>22</sup>

15. Decedent gave Kobie a check for \$5,000.00 after Mrs. Toft's death as a "thank you."<sup>23</sup> In 2018-2019, Decedent gave Kobie other checks as well, and voluntarily gave her cash from the ATM machine, in addition to checks Kathleen wrote and signed for Kobie's work as a companion.<sup>24</sup> Kathleen asked Decedent about the checks and the ATM withdrawals and Decedent unequivocally told Kathleen to "butt out".<sup>25</sup>

I would ask dad about the checks and he would say, Yes, I wanted to give her that. Sometimes he would say it was just to thank her for being so nice. Sometimes, Oh, she hadn't gotten her child support check in time. And I said, Dad are you sure? And he said, Yes, it's my money. I earned it. I'll do what I want with it. And if I pressed him further, he would tell me to butt out. And, you know, I respected my dad; and when my dad told me to butt out, I butted out.<sup>26</sup>

16. Between September 2018 and May 2019, Decedent continued to be in charge of his financial affairs.<sup>27</sup> Bob understood Decedent was handling his finances, and neither Bob nor Don did anything to stop Decedent.<sup>28</sup> Bob went

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<sup>21</sup> 1/27/23 N.T. 13 (Don); 137 (Bob); 214-215 (Kathleen).

<sup>22</sup> 1/27/23 N.T. 12 (Don).

<sup>23</sup> 1/27/23 N.T. 221, 233 (Kathleen).

<sup>24</sup> 1/6/23 Order ("the evidence is uncontroverted that Decedent voluntarily provided ATM withdrawals to Kobie Byers."); Ex. P-9.

<sup>25</sup> 1/27/23 N.T. 85-86 (Don); 136 (Bob); 202-03 (Kathleen). Bob also called his father "hardheaded" and "set in his ways." 1/27/23 N.T. 136 (Bob).

<sup>26</sup> 1/27/23 N.T. 232, 241 (Kathleen).

<sup>27</sup> 1/27/23 N.T. 241 (Kathleen).

<sup>28</sup> 1/27/23 N.T. 136, 149 (Bob).

even further, admitting his father had *the right* to make his own decisions:

Question: So, who did you think was helping your father with his finances after the stroke and before the move?

Answer: My father claimed that he was. My sister claimed that he was and would say he's sharp as a tack. But my father wanted everybody kept away and he wanted everybody kept away because he was beginning to act like a fool and I believed he knew he was acting like a fool.

Question: Do you think your father had the right to act like a fool?

Answer: He had the right to act like a fool.<sup>29</sup>

17. In May 2019, Kathleen noticed a withdrawal from the ATM on a day Decedent was in the rehab unit.<sup>30</sup> Upon investigation Kathleen determined that Kobie used the ATM card without Decedent being present, and fired Kobie.<sup>31</sup> Kathleen also reported the use of the ATM card to the police, and she and Attorney Meyers cooperated with an investigation by Adams County Office for Aging.<sup>32</sup> Kathleen canceled the debit card, changed the PIN and opened a new PNC money market account.<sup>33</sup> During this time Kathleen advanced cash to Decedent and purchased items herself and was reimbursed.<sup>34</sup>

18. On July 10, 2019, Bob had Decedent sign a new power of

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<sup>29</sup> 1/27/23 N.T. 146-47 (Bob) (internal quotation marks omitted).

<sup>30</sup> 1/27/23 N.T. 241 (Kathleen).

<sup>31</sup> 1/27/23 N.T. 223 (Kathleen).

<sup>32</sup> 1/27/23 N.T. 223-24 (Kathleen); 3/3/23 N.T. 12-14 (Attorney Meyers); Ex. A-9, A-15, A-16 and A-17; Ex. P-13.

<sup>33</sup> 1/27/23 N.T. 99-100, 116 (Don); 195-196, 227 (Kathleen); Ex. A-10.

<sup>34</sup> 1/27/23 N.T. 229-30 (Kathleen); Ex. A-20.



attorney naming Leslie Barkley as agent and naming Bob as sole “intermediary.”<sup>35</sup> Bob would not have had Decedent sign a power of attorney if he didn’t think Decedent fully understood the contents of the power of attorney and the full import of the grant of the powers of the power of attorney.<sup>36</sup> When Kathleen learned of the new power of attorney and that there was also a discussion of a new Will, Kathleen notified Leslie that she wasn’t comfortable with Leslie’s role.<sup>37</sup> Decedent decided he didn’t want anyone outside the family to serve as power of attorney, and therefore Kathleen continued as Decedent’s power of attorney.<sup>38</sup>

19. Mrs. Toft’s sister, Marie, worked as a nursing assistant at retirement homes for a large part of her career, and at various times helped care for both Mr. and Mrs. Toft.<sup>39</sup> The Tofts helped Marie financially over the years.<sup>40</sup> Decedent told Kathleen that he was giving Marie money because Mrs. Toft would want him to continue to help Marie, as they had in the past.<sup>41</sup> Decedent voluntarily gave Marie money and let her use his credit card.<sup>42</sup> Marie’s visits were beneficial to Decedent.<sup>43</sup> The checks Kathleen wrote as agent under power of attorney to Marie were done at Decedent’s direction to thank Marie for time spent with Mrs. Toft.<sup>44</sup>
20. Neither Bob nor Don made arrangements for medical appointments, took their parents to medical appointments or

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<sup>35</sup> 1/27/23 N.T. 150 (Bob) and Ex. A-13 and at LB000113. Bob’s attorney was a Maryland attorney who never met Mr. Toft and took his instructions from Bob.  
1/27/23 N.T. 149-150 (Bob).

<sup>36</sup> 1/27/23 N.T. 151 (Bob).

<sup>37</sup> 1/27/23 N.T. 226 (Kathleen) and Ex. P-35 at KT0373.

<sup>38</sup> 1/27/23 N.T. 226 (Kathleen).

<sup>39</sup> 1/27/23 N.T. 45-46, 108 (Don); 207-08 (Kathleen).

<sup>40</sup> 1/27/23 N.T. 108 (Don); 234 (Kathleen).

<sup>41</sup> 1/27/23 N.T. 234 (Kathleen).

<sup>42</sup> 1/27/23 N.T. 151-52 (Bob), 234 (Kathleen).

<sup>43</sup> 1/27/23 N.T. 109 (Don.)

<sup>44</sup> 1/27/23 N.T. 207-208 (Kathleen); Ex. P-8 check nos. 347 and 3011.

stayed at their bedsides during hospitalizations or after surgeries.<sup>45</sup>

21. Kathleen spent significant time helping her parents with all their personal and medical matters, including each of the Tofts' frequent hospitalizations, rehabilitation stays and surgeries.<sup>46</sup>
22. Due to the time commitments necessary to care for her parents, Kathleen frequently needed to take time off from work. As the time demands for her parents' care increased, she took unpaid FMLA<sup>47</sup> leave from Gettysburg Hospital, and eventually moved from full time to part time and was forced to take a 50% pay cut.<sup>48</sup>
23. Decedent was aware that Kathleen missed work, took unpaid FMLA leave and moved to part time in order to provide care for him and Mrs. Toft.<sup>49</sup> In 2017, when Kathleen and Decedent were at PNC Bank depositing a return of the Cross Keys Village entrance fee of \$136,448.00, Decedent made a gift to Kathleen of \$25,000.00. Decedent made the gift to Kathleen; Kathleen did not make the gift using Decedent's power of attorney.<sup>50</sup>
24. In April 2018, when Kathleen was going on a trip, Decedent said he wanted to help out.<sup>51</sup> Decedent gave Kathleen a gift of \$5,000.00. Kathleen did not write out the check for \$5,000.00; Decedent signed the check.<sup>52</sup>
25. Decedent also gave Kathleen a Christmas gift of \$500.00 in

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<sup>45</sup> 1/27/23 N.T. 90 (Don); 204, 215 (Kathleen).

<sup>46</sup> 1/27/23 N.T. 204-209; 212, 215, 220 (Kathleen).

<sup>47</sup> "The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave." See <https://www.dol.gov/agencies/whd/fmla>

<sup>48</sup> 1/27/23 N.T. 208-09, 221 (Kathleen).

<sup>49</sup> 1/27/23 N.T. 88 (Don); 209 (Kathleen).

<sup>50</sup> 1/27/23 N.T. 217 (Kathleen).

<sup>51</sup> 1/27/23 N.T. 222 (Kathleen).

<sup>52</sup> 1/27/23 N.T. 189 (Kathleen); Ex. P-7 Check 1516.

December 2018, as well as \$500.00 gifts to Kobie and Marie.<sup>53</sup> Kathleen received the check, signed by Decedent, in a Christmas card in the mail.<sup>54</sup>

26. Decedent's health declined quickly in late summer 2019, and Decedent went on hospice in August 2019.<sup>55</sup> Kathleen was alone with Decedent when he died on October 18, 2019.
27. Kathleen probated Decedent's Will and qualified as Executrix of Decedent's Estate on October 31, 2019.<sup>56</sup> Kathleen, as Executrix, was represented by Attorney Meyers for the Estate administration.<sup>57</sup> Kathleen was actively involved in the administration of the Estate,<sup>58</sup> and detailed her services as Executrix, including probate, paying bills, dealing with the insurance company (including to obtain benefits for all children), assisting Attorney Meyers and her paralegal, collecting assets, dealing with taxes, working with Attorney Meyers on due diligence regarding possible claims against Kobie, dealing with the Account and related audit papers, the mediation, and spending extensive time on this litigation.<sup>59</sup> Kathleen produced receipts for expenses incurred as Executrix and was reimbursed from the Estate, including money she advanced on behalf of the Estate.<sup>60</sup>
28. Attorney Meyers is Chair of the Estates and Trusts Section at the Salzmann Hughes law firm, and focuses her practice on estate planning, estate administration and fiduciary work.<sup>61</sup> Attorney Meyers' engagement agreement for the Estate administration provided for a fee based upon a

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<sup>53</sup> 1/27/23 N.T. 190 (Kathleen); Ex. P-7 check 1516; Ex. P-8 check 1532; Ex. P-9 check 1524.

<sup>54</sup> 1/27/23 N.T. 222 (Kathleen); Ex. P-7 check 1523.

<sup>55</sup> 1/27/23 N.T. 107 (Don); 1/27/23 N.T. 235 (Kathleen).

<sup>56</sup> Ex. A-2.

<sup>57</sup> 03/03/23 N.T. 16 (Attorney Meyers).

<sup>58</sup> 3/3/23 N.T. 24 (Attorney Meyers).

<sup>59</sup> 1/27/23 N.T. 236-39 (Kathleen).

<sup>60</sup> 1/27/23 N.T. 230-31; Ex. A-20 (last page), A-27; 3/3/23 N.T. 26-27 (Attorney Meyers).

<sup>61</sup> 3/3/23 N.T. 7 (Attorney Meyers).

decreasing percentage applied to the value of the assets.<sup>62</sup> The fee applies to all routine estate administration services, which Attorney Meyers described for the Court, and any additional non-routine matters such as litigation are to be charged at hourly rates.<sup>63</sup> Attorney Meyers discounted her fee from approximately \$45,000.00 to \$34,987.34, in part because of Kathleen's work as Executrix.<sup>64</sup> Attorney Meyers did not separately charge for the time she spent dealing with the mediation and the litigation until Attorney Mannion became involved.<sup>65</sup>

29. There is nothing left to do in the administration of the Estate except distribute the money at the conclusion of this litigation.<sup>66</sup>
30. This Court finds the testimony of Kathleen credible.
31. This Court finds the testimony of Attorney Meyers credible.
32. This Court gives no weight to the testimony of Brad Steinweg. His opinions are not supported by the evidence in this case.

### PROCEDURAL HISTORY

33. On March 5, 2020, Bob and Don ("Petitioners") filed an Amended Petition for Removal of Executrix in which Petitioners allege that Kathleen should be removed as Executrix because her personal interest is in conflict with that of the Estate and she has a conflict of interest relevant to the Estate's pursuit of civil remedies. Petitioners also allege that Kathleen is increasingly hostile towards Petitioners.
34. On April 24, 2020, Kathleen filed an Answer to Amended

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<sup>62</sup> 3/3/23 N.T. 21 (Attorney Meyers); Ex. A-18.

<sup>63</sup> 3/3/23 N.T. 21 (Attorney Meyers); Ex. A-18.

<sup>64</sup> 3/3/23 N.T. 22-24 (Attorney Meyers).

<sup>65</sup> 3/3/23 N.T. 22 (Attorney Meyers).

<sup>66</sup> 3/3/23 N.T. 26 (Attorney Meyers).

## Petition for Removal of Executrix.

35. On October 14, 2020, pursuant to agreement of counsel and stipulation, this Court entered an Order directing the Estate to retain and compensate the accounting firm of SEK CPA's and Advisors to conduct a forensic audit in connection with the matters outlined in the Amended Petition for Removal of Executrix. Further, upon conclusion of the audit, the parties would submit the case to mediation.<sup>67</sup>
36. On February 4, 2022, Kathleen filed the First and Final Account for the Estate.
37. On March 16, 2022, Petitioners filed Objections to Account. On April 8, 2022, Kathleen filed Answer to Objections of Robert F. Toft and Donald P. Toft to First and Final Account.
38. On August 11, 2022, Petitioners filed Motion to Supplement Objections to Account. On October 4, 2022, this Court denied Petitioners' Motion to Supplement Objections to Account.
39. On November 10, 2022, Kathleen filed Motion for Partial Summary Judgment and Brief in Support as to Petitioners' Objections 1,2,3,4,6,7 and 10 to the extent the objections relate to the period after Decedent's death and Objections 11,16,18,19 and 20.
40. On December 2, 2022, Petitioners filed an Answer to Motion for Partial Summary Judgment. Petitioners withdrew Objections 1,2,3,4 and 18.
41. On January 6, 2023, this Court granted Kathleen's Motion for Partial Summary Judgment with respect to Objections 7,10 and 11, to the extent the Motion for Partial Summary Judgment relates to the period after Decedent's death. This Court also granted Kathleen's Motion for Partial Summary Judgment for Objections 7,16,19 and 20.
42. Therefore, the issues for trial relate to Petitioners' Objections

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<sup>67</sup> Mediation occurred and was unsuccessful.

5,6,8,9,12,13,14,15 and 17, and Objections 10 and 11 as they relate to the period before Decedent's death.

43. Objection 5 relates to a payment to Kathleen from the Estate for "reimbursement for gas/hotel/expenses associated with mediation and distribution of father's ashes" in the amount of \$549.18.
44. Objection 6 relates to checks from a single lifetime account of Decedent that were made during Decedent's lifetime to Kobie Byers and Marie Marsh totaling \$13,600.00.
45. Objection 8 relates to checks from a single lifetime account of Decedent to Kathleen for the benefit of Kathleen and totaling \$30,500.00.
46. Objection 9 relates to \$587,420.37 that was transferred from Decedent's Vanguard account to pay for the Toft's care and maintenance at Cross Keys Village.
47. Objection 10 relates to an allegation that Kathleen was uncooperative with the investigation into Kobie and Marie, that they exploited Decedent during his lifetime, and such interference by Kathleen resulted in the failure of the Estate to recover significant funds. Petitioners do not aver the amount of the funds which were not recovered.
48. Objection 11 relates to Kathleen's alleged conflict of interest with the Estate, thus disqualifying her from serving as Executrix. Therefore, Petitioners object to each and every transaction undertaken by the Kathleen serving as Executrix in the administration of the Estate. Petitioners do not aver any specific amount owed to the Estate resulting from Kathleen's alleged conflict of interest.
49. Objections 12 and 13 relate to the flat 2.5% commission to Kathleen (\$34,987.94) concerning her role as Executrix.
50. Objection 14 relates to the legal fees and expenses to Attorney Meyers in the amount of \$34,987.94, based on a flat 2.5% calculation.

51. Objection 15 relates to a \$75.00 filing fee in the litigation resulting from Petitioners' Petitions.
52. Objection 17 relates to a litigation reserve of \$60,000.00 for litigation legal fees resulting from the filing and litigation of Petitioners' Petitions.

### LEGAL STANDARD

"It has been said many times that one may by will dispose of his property as he sees fit and that he is entitled to act on his own prejudices." **In re: Estate of Younger**, 508 A.2d 327, 330 (Pa. Super. 1986) quoting **In re: Patti's Estate**, 1 A.2d 791, 798 (Pa. Super. 1938). "In other words, it being the prerogative of any man to dispose of his estate as he sees fit, it is not the function of any court of equity to invalidate a testamentary disposition in the absence of, e.g., undue influence, the components of which-weakened intellect, confidential relationship and substantial benefit-have not all been established to the level of clear and convincing evidence instantly." **Id.**; see also **In re: Estate of Nalaschi**, 90 A.3d 8, 11 (Pa. Super. 2014).

### Removal of Executrix

The court shall have exclusive power to remove a personal representative when he: (1) is wasting or mismanaging the estate, is or is likely to become insolvent, or has failed to perform any duty imposed by law; and (5) when, for any other reason, the interest of the estate are likely to be jeopardized by his continuance in office. 20 Pa. C.S. § 3182.

The standard of proof for removal of executrix requires clear and convincing evidence and a substantial reason for removal. **In re Estate of Mumma**, 41 A.3d 41, 50 (Pa. Super. 2012); **In re Estate of Westin**, 874 A.2d 139, 143 (Pa. Super. 2005).

The clear and convincing evidence standard is the highest burden in Pennsylvania civil law and requires that the fact finder be able to come to clear conviction, without hesitancy, of the truth of

the precise fact in issue. **Lessner v. Robinson**, 592 A.2d 678, 681 (Pa. 1991).

To meet the clear and convincing evidentiary standard, it necessarily means that witnesses must be found to be credible, the facts to which they have testified are remembered distinctly, and that their testimony is so clear, direct, weighty, and convincing as to enable either a judge or jury to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue. **Jones v. Prudential Property and Casualty Ins. Co.**, 856 A.2d 838 (Pa. Super. 2004).

### **Surcharge**

A surcharge is a penalty for the failure to exercise common prudence, common skill, and common caution in the performance of a fiduciary duty and is imposed to compensate beneficiaries for loss caused by a fiduciary's want of due care. **In re Estate of Dobson**, 490 Pa. 476, 484, 417 A.2d 138, 142 (1980) (citing **Estate of Stephenson**, 469 Pa. 128, 364 A.2d 1301 (1976) and **Miller's Estate**, 345 Pa. 91, 26 A.2d 320 (1942)). A surcharge can only be awarded for actual losses incurred by the Estate. *See In re Miller's Estate*, 345 Pa. 91, 93, 26 A.2d 320, 321 (1942) (a "[s]urcharge . . . is imposed to compensate beneficiaries for loss caused by the fiduciary's want of due care.").

In general, one who seeks to surcharge a fiduciary bears the burden of proving that the fiduciary breached a duty. **In re Estate of Lux**, 389 A.2d 1053, 1056 (Pa. 1978); **Estate of Nicely**, 2003 WL 22183940 \*4-5 (Phila. O.C. 2003). The objecting party must prove the breach of duty by a preponderance of evidence. **Id.**

### **Standard of Review: Expert Opinions**

Pennsylvania case law recognizes that professional expert opinions are evidence of low quality and little value. "[A]n opinion is only an opinion. It creates no fact. Because of this, opinion evidence is considered of a low grade and not entitled to much weight against positive testimony of actual facts such as statements by the defendant and observation of his actions." **Bernstein, 2014**



**Pa. Rules of Evidence** (Gann), Comment 7(e) to Pa. R.E. 702, pg. 617 quoting **Com. v. McCloud**, 455 A.2d 177, 179 (Pa. Super. 1983). While opinion evidence is admissible, it will not sustain a finding of fact in the face of direct and credible evidence unless strengthened by other facts and circumstances. **In re Snedeker's Estate**, 84 A.2d 568, 569 (Pa. 1951).

“It is well settled that expert testimony is incompetent if it lacks an adequate basis in fact. The expert is allowed only to assume the truth of testimony already in evidence.” **Viener v. Jacobs**, 834 A.2d 546, 558 (Pa. Super. 2003); **Hussey v. May Dep't Stores, Inc.**, 357 A.2d 635, 637 (Pa. Super. 1976).

## DISCUSSION

### Surcharge

Petitioners allege that Kathleen breached her fiduciary duty to Decedent as agent under the power of attorney for failure to act with care, competence and diligence. Petitioners' allegations are not supported by the facts and evidence presented at hearing. There was no competent evidence presented that Kathleen breached her fiduciary duty to Decedent while acting as agent under the power of attorney.

The testimony and evidence presented established that Decedent made his own decisions concerning financial matters, investments, and gifts. Testimony from Decedent's children, including Petitioners, clearly established that Decedent was strong willed, stubborn, hardheaded, and set in his ways. Decedent was in control of his own financial matters. Decedent was well aware of the gifts and additional money which he was providing to both Kobie and Marie, and Decedent was the individual who made those decisions. Petitioners have presented no evidence to support their position that Kathleen violated her fiduciary duty to Decedent by writing checks and providing money to Kobie and Marie which Decedent did not authorize. In fact, both Bob and his wife wrote checks to Kobie on behalf of Decedent totaling \$5,500.00. While Bob testified that the checks were “a red flag” and expressed his concerns about them to Decedent, Bob determined it was what Decedent wanted to do.

Kathleen was acting at the direction of Decedent when checks were written to Kobie and Marie as gifts from Decedent. Petitioners have failed to meet their burden of proof concerning a surcharge of Kathleen while acting as power of attorney for Decedent.

### **Objections to Account**

Objection 5 relates to a payment to Kathleen from the Estate for “reimbursement for gas/hotel/expenses associated with mediation and distribution of father’s ashes” in the amount of \$549.18. Kathleen was acting on behalf of the Decedent and as Executrix of the estate when she distributed Decedent’s ashes at the Jersey Shore. As such, she is entitled to financial reimbursement. Kathleen is also entitled to reimbursement for expenses related to mediation because she was acting in her capacity as Executrix and was legally required to participate in mediation based on the Petition filed by Petitioners. Objection 5 is denied.

Objection 6 relates to checks from a single lifetime account of Decedent that were made during Decedent’s lifetime to Kobie Byers and Marie Marsh totaling \$13,600.00. Petitioners are requesting a surcharge of \$13,600.00 from Kathleen as Executrix for money Decedent had willfully provided to Kobie and Marie. Decedent made his own decisions concerning financial matters, investments, and gifts. Decedent was well aware of the gifts and additional money which he was providing to both Kobie and Marie, and Decedent was the individual who made these decisions. Petitioners have presented no evidence to support their claim that Kathleen violated her fiduciary duty to Decedent by writing checks and providing money to Kobie and Marie which Decedent did not authorize. Objection 6 is denied.

Objection 8 relates to checks from a single lifetime account from Decedent to Kathleen for the benefit of Kathleen and totaling \$30,500.00. The evidence and testimony clearly support Decedent’s intent in providing three separate gifts to Kathleen totaling \$30,500.00. Kathleen did not write these checks to herself from Decedent’s account in her role as power of attorney. Decedent wrote and provided these checks to Kathleen or directed that money be

transferred from his account to Kathleen's account. The Statement of Facts documents everything Kathleen had done for the Toft's (see paragraphs 7,8,21,22 and 23). Given Decedent's understanding of the personal and financial sacrifices made by Kathleen to help the Toft's, it was Decedent's decision to provide these gifts to Kathleen. Objection 8 is denied.

Objection 9 relates to \$587,420.37 that was transferred from Decedent's Vanguard account to pay for the Toft's care and maintenance while at Cross Keys Village. Petitioners have presented no evidence to support Objection 9. Objection 9 is denied.

Objection 11 relates to Kathleen's alleged conflict of interest with the Estate and Petitioners' Amended Petition for Removal of Executrix. Based on this Court's denial of Petitioners' Amended Petition for Removal of Executrix, Objection 11 is denied.

Objections 12 and 13 relate to the commission to Kathleen as Executrix in the amount of \$34,987.94. The standard for setting executor fees is set forth at 20 Pa. C.S.A. § 3537 which provides that:

The court shall allow such compensation to the personal representative as shall in the circumstances be reasonable and just and may calculate such compensation on a graduated percentage.

In **Estate of Rees**, 625 A.2d 1203 (Pa. Super. 1983), the Superior Court stated that "While as a matter of convenience, the compensation of a fiduciary may be arrived at by way of percentage, the true test is always what the services were actually worth and to award a fair and just compensation therefore." **Id.** at 1206. While the executor bares the burden of proving the reasonableness of his/her commission, absent an agreement between parties, the final determination of the appropriateness of the fee is left to the sound discretion of court. **Estate of Harper**, 975 A.2d 1155, 1162-1163 (Pa. Super. 2009).

This Court finds that the compensation set forth in the Account for Kathleen as Executrix in the amount of \$34,987.94, under the

circumstances, is reasonable and just. Kathleen was actively involved in the administration of the estate, and detailed her services as Executrix, including probate, paying bills, dealing with the insurance company (including to obtain benefits for all children), assisting Attorney Meyers and her paralegal, collecting assets, dealing with taxes, working with Attorney Meyers on due diligence regarding possible claims against Kobie, dealing with the account and related audit documentation, the mediation and spending extensive time on this litigation. Attorney Meyers discounted her fee from approximately \$45,000.00 to \$34,987.34, in part because of Kathleen's work as Executrix. Objections 12 and 13 are denied.

Objection 14 relates to the legal fees and expenses to Attorney Meyers in the amount of \$34,987.94. An attorney is entitled to reasonable compensation based on services rendered to an estate but he also bears the burden of proof as to the reasonableness of the fees requested. **Estate of Sonovick**, 541 A.2d 374, 376 (Pa. Super. 1988). Ultimately, the responsibility for deciding what is reasonable falls upon the auditing judge. **Thompson Estate**, 232 A.2d 625, 631 (Pa. 1967). In that regard the guidance pronounced by the Pennsylvania Supreme Court in **In Re Trust Estate of LaRocca**, 246 A.2d 337 (Pa. 1968), is most often cited by the courts of this Commonwealth:

What is a fair and reasonable fee is sometimes a delicate, and at times a difficult question. The facts and factors to be taken into consideration in determining the fee or compensation payable to an attorney include: the amount of work performed; the character of the services rendered; the difficulty of the problems involved; the importance of the litigation; the amount of money or value of the property in question; the degree of responsibility incurred; whether the fund involved was 'created' by the attorney; the professional skill and standing of the attorney in his profession; the results he was able to obtain; the ability of the client to pay reasonable fee for the services rendered; and, very

importantly, the amount of money or the value of the property in question.

**Id.** at 339. Attorney Meyers' engagement agreement for the Estate administration provided for a fee based upon a decreasing percentage applied to the value of the assets. The fee applies to all routine estate administrative services, for which Attorney Meyers provided testimony, and also included additional non-routine matters related to the Petitions filed by Petitioners. Attorney Meyers discounted her fee from approximately \$45,000.00 to \$34,987.34, a percentage of 2.5%, in part because of Kathleen's work as Executrix. Attorney Meyers did not separately charge for the time she spent dealing with the mediation and litigation until trial counsel was engaged. Given the nature of the estate, the antagonistic relationship between Petitioners and Executrix, and the pending litigation, this Court finds that Attorney Meyers' fees are more than reasonable, given her expertise as an estate attorney coupled with the work she performed. Objection 14 is denied.

Objection 15 relates to a \$75.00 filing fee in the litigation resulting from Petitioners' Petition. Objection 17 relates to a litigation reserve of \$60,000.00 for litigation legal fees resulting from the filing and litigation of Petitioners' Petitions. Given this Court's denial of Petitioners' Petition, Objection 15 is denied. Following the filing of a verified Petition for Approval of Counsel Fees and Expenses, this Court will award litigation legal fees resulting from the filing and litigation of Petitioners' Petitions from the \$60,000.00 litigation reserve. See **In Estate of Browarsky**, 263 A.2d 365, 366 (Pa. 1970); **Wormley Estate**, 59 A.2d 98, 100 (Pa. 1948). Objection 17 is denied.

### **Removal of Executrix**

Petitioners have presented no evidence, and clearly have not presented clear and convincing evidence, to support Kathleen's removal as Executrix. The Estate is not jeopardized by Kathleen serving as Executrix. Petitioners have presented no evidence to show Kathleen's personal interest is in conflict with that of the Estate. As Executrix, she had a legal duty to represent the Estate in

the litigation resulting from Petitioners' Petitions. Any hostility between Kathleen and the Petitioners is primarily based on Petitions filed by Petitioners and the resulting litigation. Such is not a basis for removal of Kathleen as Executrix.

Accordingly, the attached Order is entered.

### ORDER OF COURT

AND NOW, this 21<sup>ST</sup> day of July, 2023, upon consideration of the Objections of Robert F. Toft and Donald P. Toft to the Account of Kathleen Toft, Executrix, and the Amended Petition for Removal of Executrix and Answer thereto, and following an evidentiary hearing before the Court on January 27, 2023 and March 3, 2023 and consideration of the post-trial submissions of counsel, it is hereby **ORDERED** and **DECREED** as follows:

1. The Amended Petition for Removal of Executrix is **DENIED**.
2. Objections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17 to the Account of Kathleen Toft, Executrix, are **DISMISSED**.
3. Within 30 days of the date of this Order, Kathleen Toft, Executrix, may file a verified petition for approval of counsel fees and expenses, and give notice to all parties in interest, who will respond in accordance with the Rules of Court. Upon close of the pleadings the Court will schedule a telephone conference with counsel.

SHERIFF SALES

IN PURSUANCE of writs of execution issuing out of the Court of Common Pleas of Adams County, Pennsylvania, and to me directed, will be exposed to Public Sale online auction conducted by Bid4Assets, 8757 Georgia Ave., Suite 520, Silver Springs, MD 20910. On September 15<sup>th</sup>, 2023, at 10:00 a.m.

No. 23-SU-225

**Loancare, LLC**

**vs.**

**Scott J Alwine, II**

Property Address: 12 North Peter Street, New Oxford, PA 17350  
UPI/Tax Parcel Number:  
34005-0042--000

Owner(s) of Property Situate in New Oxford Borough, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling

Judgment Amount: \$62,862.57

Attorney for Plaintiff:

KML Law Group, P.C.

No. 22-SU-416

**Pennymac Loan Services, LLC**

**vs.**

**Angela R. Barakati, Ahmed Barakati**

Property Address: 2224 Hunterstown Hampton Road, New Oxford, PA 17350  
UPI/Tax Parcel Number:  
38031-0015--000

Owner(s) of Property Situate in Straban Township, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling

Judgment Amount: \$174,607.67

Attorney for Plaintiff:

McCabe, Weisberg & Conway, LLC  
1420 Walnut Street, Suite 1501  
Philadelphia, PA 19102

No. 22-SU-143

**HMC Assets, Solely in its Capacity as Separate Trustee of Cam Xi Trust**  
**vs.**

**Lesa M. Ferris a/k/a Lesa M. Cavicchio**

Property Address: 430 Onyx Road, New Oxford, PA 17350

UPI/Tax Parcel Number:

35J12-0238--000

Owner(s) of Property Situate in Oxford Township, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling

Judgment Amount: \$435,624.78

Attorney for Plaintiff:

Pincus Law Group, PLLC  
Jerome Blank, Esquire (49736)  
2929 Arch Street, Suite 1700  
Philadelphia, PA 19104  
Phone: (484) 575-2201

No. 22-NO-1198

**Borough of Littlestown**

**vs.**

**Corey Kauffman**

Property Address: 319 East King Street, Littlestown, PA 17340

UPI/Tax Parcel Number:

27009-0009--000

Owner(s) of Property Situate in Littlestown Borough, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling and Lot

Judgment Amount: \$715.22

Attorney for Plaintiff:

Salzmann Hughes, P.C.  
Justin M. George, Esquire  
Attorney ID Number 322515  
79 St. Paul Drive  
Chambersburg, PA 17201  
(717) 263-2121

No. 22-SU-887

**Freedom Mortgage Corporation**

**vs.**

**Scott L. Krumrine, Jr., Rachel L. Krumrine**

Property Address: 155 Filbert Street, Hanover, PA 17331

UPI/Tax Parcel Number:

08010-0068-000

Owner(s) of Property Situate in Conewago Township, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling

Judgment Amount: \$212,130.71

Attorney for Plaintiff: Brock & Scott, PLLC

No. 22-SU-1226

**Beltway Capital LLC, ET AL.**

**vs.**

**Michael Eader, Known Surviving Heir of Larry H. Eader, Unknown Heirs of Larry H. Eader**

Property Address: 325 Lexington Way, Littlestown, PA 17340

UPI/Tax Parcel Number:

27011-0224-000

Owner(s) of Property Situate in Littlestown Borough, Adams County, Pennsylvania

Improvements Thereon:

Residential Dwelling

Judgment Amount: \$261,293.88

Attorney for Plaintiff:

Buchanan Ingersoll & Rooney, P.C.  
50 S. 16th Street, Suite 3200  
Philadelphia, PA 19102  
Phone: (215) 665-3921

NOTICE directed to all parties in interest and claimants that a schedule of distribution will be filed by the Sheriff in his office no later than (30) thirty days after the date of sale and that distribution will be made in accordance with that schedule unless exceptions are filed thereto within (10) ten days thereafter.

Purchaser must settle for property on or before filing date. ALL claims to property must be filed with Sheriff before sale date.

AS SOON AS THE PROPERTY IS DECLARED SOLD TO THE HIGHEST BIDDER 20% OF THE PURCHASE PRICE OR ALL OF THE COST, WHICHEVER MAY BE THE HIGHER, SHALL BE PAID FORTHWITH TO THE SHERIFF.

James W. Muller  
Sheriff of Adams County  
www.adamscounty.us

08/18, 08/25, & 09/01

SHERIFF SALES

IN PURSUANCE of writs of execution issuing out of the Court of Common Pleas of Adams County, Pennsylvania, and to me directed, will be exposed to Public Sale online auction conducted by Bid4Assets, 8757 Georgia Ave., Suite 520, Silver Springs, MD 20910. On September 15<sup>th</sup>, 2023, at 10:00 a.m.

**No. 22-SU-541**  
**Truist Bank Successor by Merger to Branch Banking & Trust Company vs.**  
**Amanda Mirabile, James Mirabile**  
Property Address: 14 Yvonne Trail, Fairfield, PA 17320  
UPI/Tax Parcel Number: 43022-0176--000  
Owner(s) of Property Situate in Carroll Valley Borough, Adams County, Pennsylvania  
Improvements Thereon: Residential Dwelling  
Judgment Amount: \$219,025.59  
Attorney for Plaintiff: McCabe, Weisberg & Conway, LLC  
1420 Walnut Street, Suite 1501 Philadelphia, PA 19102

**No. 23-SU-334**  
**Pennsylvania Housing Finance Agency, Its Successors and Assigns vs.**  
**Susan Jane Roth**  
Property Address: 20 Westview Drive, McSherrystown, PA 17344  
UPI/Tax Parcel Number: 28002-0220-000  
Owner(s) of Property Situate in the Borough of McSherrystown, Adams County, Pennsylvania  
Improvements Thereon: Residential Dwelling or Lot  
Judgment Amount: \$103,001.08  
Attorney for Plaintiff: Barley Snyder, LLP

**No. 22-SU-1061**  
**Amerihome Mortgage Company, LLC vs.**  
**Scott A. Dutterer, Executor of the Estate of Carole Jean Dutterer, Steven L. Dutterer, Loreen A. Topper, Unknown Heirs, Successors, Assigns and All Persons, Firms Associations Claiming Right, Title or Interest from Under Carole, Dutterer, Deceased**  
Property Address: 317 Parkway Drive, Littlestown, PA 17340  
UPI/Tax Parcel Number: 27005-014A-000  
Owner(s) of Property Situate in Littlestown Borough, Adams County, Pennsylvania  
Improvements Thereon: Residential Dwelling  
Judgment Amount: \$215,386.45  
Attorney for Plaintiff: Brock & Scott, PLLC

**No. 22-SU-723**  
**Mclean Mortgage Corporation vs.**  
**Scott E Stambaugh**  
Property Address: 135 Chapel Road, Hanover, PA 17331  
UPI/Tax Parcel Number: 08K14-0001O-000  
Owner(s) of Property Situate in Conewago Township, Adams County, Pennsylvania  
Improvements Thereon: Residential Dwelling  
Judgment Amount: \$126,785.21  
Attorney for Plaintiff: Manley Deas Kochalski, LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
(614) 220-5611

**No. 19-SU-1005**  
**The Bank of New York Mellon f/k/a The Bank of New York, As Trustee for the Certificate Holders of the Cwabs Inc., Asset-Backed Certificates, Series 2005-16 vs.**  
**Kimberly Wolfgang, Known Heir and Administratrix of the Estate of Thomas E. Wolfgang a/k/a Thomas Eugene Wolfgang, Deceased, Sarah K. Wolfgang a/k/a Sarah Kay Wolfgang, Known Heir of Thomas E. Wolfgang a/k/a Thomas Eugene Wolfgang, Deceased**  
Property Address: 330 McSherry Wood Drive, Littlestown, PA 17340  
UPI/Tax Parcel Number: 27011-0124-000  
Owner(s) of Property Situate in Borough of Littlestown, Adams County, Pennsylvania  
Improvements Thereon: Residential Dwelling  
Judgment Amount: \$173,816.88  
Attorney for Plaintiff: Pincus Law Group, PLLC  
Chris Cummins, Esquire (331304)  
2929 Arch Street, Suite 1700 Philadelphia, PA 19104  
Phone: (484) 575-2201

NOTICE directed to all parties in interest and claimants that a schedule of distribution will be filed by the Sheriff in his office no later than (30) thirty days after the date of sale and that distribution will be made in accordance with that schedule unless exceptions are filed thereto within (10) ten days thereafter.

Purchaser must settle for property on or before filing date. ALL claims to property must be filed with Sheriff before sale date.

AS SOON AS THE PROPERTY IS DECLARED SOLD TO THE HIGHEST BIDDER 20% OF THE PURCHASE PRICE OR ALL OF THE COST, WHICHEVER MAY BE THE HIGHER, SHALL BE PAID FORTHWITH TO THE SHERIFF.

James W. Muller  
Sheriff of Adams County  
www.adamscounty.us

08/18, 08/25, & 09/01



**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 FAYE M. BAKER, DEC'D**

Late of Carroll Valley Borough, Adams County, Pennsylvania  
Co-Executrices: Brenda M. Riley, 119 Gentry Court, Palmyra, PA 17078;  
Donna K. Schadel, 122 Jacks Mountain Road, Fairfield, PA 17320  
Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

**ESTATE OF DAVID W. COSHUN, DEC'D**

Late of Straban Township, Adams County, Pennsylvania  
Executrix: Geraldine D. Lohuis, 125 Cavalry Field Road, Gettysburg, PA 17325  
Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

**ESTATE OF PATRICIA CARR FERGUSON, DEC'D**

Late of Leesburg Borough, Loudoun County, Virginia  
Administrator: Mark E. Ferguson, c/o Gates & Gates, P.C., 250 York Street, Hanover, PA 17331  
Attorney: Rachel L. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

**ESTATE OF RUTHANN SELBY, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania  
Executrix: Deborah A. Greenholt, c/o 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

**ESTATE OF FLORENCE M. SMITH, DEC'D**

Late of Straban Township, Adams County, Pennsylvania  
Administrator: Ronald C. Smith, 372 E. Water Street, Gettysburg, PA 17325  
Attorney: John J. Murphy III, Esq., Patrono & Murphy, LLC, 28 West Middle Street, Gettysburg, PA 17325

**ESTATE OF DONALD CHRISTIAN WALSH, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania  
Administrator: Brendan Banford, c/o Trinity Law, 1681 Kenneth Road, Suite 2, York, PA 17408  
Attorneys: Patrick J. Schaeffer, Esq., and Laura E. Bayer, Esq., Trinity Law, 1681 Kenneth Road, Suite 2, York, PA 17408

**SECOND PUBLICATION****ESTATE OF MAYETTA C. BLACK, DEC'D**

Late of Menallen Township, Biglerville, Adams County, Pennsylvania  
Executrix: Linda Black Miller, 1329 Brysonia-Wenksville Road, Biglerville, PA 17307  
Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

**ESTATE OF JOHNNY F. JAKO, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania  
Executrix: Jennifer L. Gaylord, c/o Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331  
Attorney: Scott L. Kelley, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

**ESTATE OF PATRICIA M. SPRENGEL, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania  
Executrix: Jennifer Richardson, 456 Hartman Avenue, Hanover, PA 17331  
Attorney: Clayton A. Lingg, Esq., Mooney Law, 230 York Street, Hanover, PA 17331

**THIRD PUBLICATION****ESTATE OF DOROTHY M. BAIR, DEC'D**

Late of Union Township, Adams County, Pennsylvania  
Co-Executors: Stacy L. Rebert, 1650 Hanover Pike, Littlestown, PA 17340;  
Theodore L. Bair, Jr., 389 Basehoar Road, Littlestown, PA 17340; Douglas E. Bair a/k/a Douglas G. Bair, 585 Little Elk Creek Road, Oxford, PA 19363  
Attorney: Adam D. Boyer, Esq., Barley Snyder, Suite 101, 123 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF MELISSA M. ECKERT, DEC'D**

Late of Reading Township, Adams County, Pennsylvania  
Administratrix: Rachel Newberry, 19 North School House Road, Thomasville, PA 17364

**ESTATE OF MARY LOUISE SEAMENS, DEC'D**

Late of Cumberland Township, Gettysburg, Adams County, Pennsylvania  
Executor: Howard Seamens, 1810 N. Nelson Street, Arlington, VA 22207  
Attorney: Jeffery M. Cook, Esq., 234 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF CALOGERO TRIPOLI, DEC'D**

Late of Huntingdon Township, Adams County, Pennsylvania  
Executor: Gianfranco Stasio, Via Antonio Moscatelli 13, Mentana, Italy 00013  
Attorney: John J. Murphy III, Esq., Patrono & Murphy, LLC, 28 West Middle Street, Gettysburg, PA 17325

**ESTATE OF MARY J. WIERMAN, DEC'D**

Late of Germany Township, Adams County, Pennsylvania  
Executrix: Sandra M. Clark, 348 Barberrry Drive, Hanover, PA 17331  
Attorney: Matthew L. Guthrie, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

