

# Adams County Legal Journal

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## IN THIS ISSUE

IN RE: ESTATE OF  
WENDELL L. LEHMAN, DECEASED  
(Part 1 of 2)

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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

If you wish to deny any of the statements set forth in this affidavit, you must file a counter-affidavit within 20 days after this affidavit has been served on you or the statements will be admitted.

Affidavit Under Section 3301(d)  
of the Divorce Code

1. The parties to this action separated on May 28, 2010.
2. Check (a) or (b):
  - ☐ (a) The date of separation was prior to December 5, 2016, and the parties have continued to live separate and apart for a period of at least two years.
  - ☒ (b) The date of separation was on or after December 5, 2016, and the parties have continued to live separate and apart for a period of at least one year.
3. The marriage is irretrievably broken.
4. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

DATE: 04/30/2021  
/s/ Julie A. Ritter  
Julie A. Ritter, Plaintiff  
Filed on April 30, 2021.

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

Counter-Affidavit Under Section 3301(d)  
of the Divorce Code

1. Check either (a) or (b):
  - ☐ (a) I do not oppose the entry of a divorce decree.

- ☐ (b) I oppose the entry of a divorce decree because:  
Check (i), (ii), (iii) or all:
    - ☐ (i) The parties to this action have not lived separate and apart for the required separation period: two years for parties that separated prior to December 5, 2016, and one year for parties that separated on or after December 5, 2016.
    - ☐ (ii) The marriage is not irretrievably broken.
    - ☐ (iii) There are economic claims pending.
2. Check (a), (b) or (c):
    - ☐ (a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees, costs and expenses, or other important rights if I do not claim them before a divorce is granted.
    - ☐ (b) I wish to claim economic relief, which may include alimony, division of property, lawyer's fees, costs and expenses, or other important rights.

I UNDERSTAND THAT IN ADDITION  
TO CHECKING 2(b), I MUST ALSO FILE  
ALL OF MY ECONOMIC CLAIMS IN

WRITING AND SERVE THEM ON THE  
OTHER PARTY. IF I FAIL TO DO SO  
BEFORE THE DATE SET FORTH ON  
THE NOTICE OF INTENTION TO FILE  
THE PRAECIPE TO TRANSMIT  
RECORD, THE DIVORCE DECREE OR  
ORDER APPROVING GROUNDS FOR  
DIVORCE MAY BE ENTERED WITHOUT  
FURTHER NOTICE TO ME, AND I MAY  
BE UNABLE THEREAFTER TO FILE  
ANY ECONOMIC CLAIMS.

- ☐ (c) Economic claims have been  
raised and are not resolved.

I verify that the statements made in  
this counter-affidavit are true and cor-  
rect. I understand that false statements  
herein are made subject to the penalties  
of 18 Pa.C.S. § 4904, relating to unsworn  
falsification to authorities.

DATE: \_\_\_\_\_

Elias N. Langas, Defendant

NOTICE: IF YOU DO NOT WISH TO  
OPPOSE THE ENTRY OF A DIVORCE  
DECREE OR ORDER APPROVING  
GROUNDS FOR DIVORCE AND YOU  
DO NOT WISH TO MAKE ANY CLAIM  
FOR ECONOMIC RELIEF, YOU SHOULD  
NOT FILE THIS COUNTER-AFFIDAVIT.

5/14



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**Terry P. Leslie, M.Ed., CRC, ABVE/D, LPC**  
President/Vocational Expert

IN RE: ESTATE OF WENDELL L. LEHMAN, DECEASED  
(Part 1 of 2)

1. Decedent was not one to be bullied or coerced into anything by anyone. Indeed, Decedent was strong willed and all his children either got in line with Decedent's will or suffered the consequences.

2. Anette's status as an heir of Decedent fluctuated throughout Decedent's life-time depending upon whether Anette was in Decedent's good graces. In 1987, she was in. In 1991, she was in. In 1992, she was out. In 1993, she was out. In 2007, she was in. In 2010, she was in. In 2011, she was in. In 2012, she was out. In 2014, she was out. In 2015, she was out.

3. Petitioners initially allege that Sheldon unduly influenced Decedent into signing the beneficiary designation forms for the four non-probate TOD Accounts.

4. Petitioners must establish through evidence that is clear, precise, and convincing (1) weakened intellect; (2) a confidential relationship; and (3) that the proponent received a substantial benefit.

5. Mild neurocognitive disorder (mild cognitive impairment) is modest cognitive decline in one or more cognitive domains that does not substantially interfere with everyday activities. As such, mild cognitive impairment does not rise to the level of "weakened intellect."

6. During trial, there was no evidence presented that Decedent's signatures or initials were forged, or that Sheldon somehow deceived or manipulated Decedent into signing the non-probate TOD Account beneficiary designations under the guise that they were something else.

7. Petitioners have also failed to present clear, precise, and convincing evidence establishing a confidential relationship between Decedent and Sheldon during the fall and winter of 2014.

8. Petitioners also allege that Sheldon breached his fiduciary duty as POA to Decedent by failing to exercise reasonable caution or prudence, in the exercise of this duty, in the omission of material information in updating others as to the non-probate accounts given the "known intent" of Decedent which was not consistent with the non-probate account changes.

9. The evidence and testimony at trial clearly established that Sheldon was not acting as the agent for Decedent when Sheldon appeared with Decedent at the November 10, 2014 meeting, nor was Sheldon acting as agent for Decedent when Sheldon prepared the beneficiary designation forms at the direction of Decedent which Decedent signed on January 26, 2012 and November 18, 2014.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,  
PENNSYLVANIA, ORPHANS' COURT, OC-73-2017, IN RE:  
ESTATE OF WENDELL L. LEHMAN, DECEASED

Neil W. Yahn, Esquire and Kim Bonner, Esquire, Attorneys for  
Annette Boyer, Wendy Starner, Christopher Boyer, Quinn Starner,  
Ross Starner and Nicholas Boyer

Walter A. Tilley, Esquire and Sarah Doyle, Esquire, Attorneys for  
Sheldon Lehman

Ronald L. Finck, Esquire, Attorney for Lindy Lingg and Wanda Lebo  
Wagner, J., April 16, 2021

## OPINION

Before this Court for decision is Petitioners' Objections to Respondent's First and Final POA Accounting as Agent for Wendell L. Lehman. For the reasons set forth herein, said Objections are denied.

## FINDINGS OF FACT

### Parties

1. Decedent, Wendell L. Lehman (hereinafter "Decedent"), a resident of Adams County, Pennsylvania, died on August 2, 2016, at age 89. (Pet.'s Ex. 1).
2. Decedent is survived by his wife, Beatrice Lehman (hereinafter "Beatrice"), and four children from his prior marriage to Jeanne Lehman (Jeanne died on September 17, 2009), namely Annette Boyer (hereinafter "Annette"), Sheldon Lehman (hereinafter "Sheldon"), Lindy Lingg (hereinafter "Lindy") and Wanda Lebo (hereinafter "Wanda").
3. Annette currently resides at 1843 Shoemaker Drive, New Oxford, Pennsylvania 17350.
4. Sheldon currently resides at 304 Elmwood Boulevard, York, Pennsylvania 17403.
5. Lindy currently resides at 301 Broadway, Hanover, Pennsylvania 17331.
6. Wanda currently resides at 155 Foxtown Drive, Abbottstown, Pennsylvania 17301.
7. Wendy Starnier (hereinafter "Wendy") is Decedent's granddaughter (daughter of Annette), who currently resides at 4558 Carlisle Pike, New Oxford, Pennsylvania 17350.
8. Christopher Boyer (hereinafter "Christopher") is Decedent's grandson (son of Annette), who currently resides at 894 Trolley Road, York Springs, Pennsylvania 17372.
9. The following individuals (all Decedent's great-grandchildren and Annette's grandchildren) are also Petitioners in interest in this matter: Quinn Starnier, who currently resides at 1956 Ridge Road, Wellsville, Pennsylvania 17365; Ross Starnier, who currently resides at 4558 Carlisle Pike, New Oxford, Pennsylvania 17350; Nicholas Boyer, who currently resides at 894 Trolley Road, York Springs, Pennsylvania 17372 and

DeAnna Boyer, who currently resides at 894 Trolley Road, York Springs, Pennsylvania 17372.

10. Annette, Wendy, Christopher, and Annette's Grandchildren are the Petitioners in this action.
11. After the death of Jeanne on September 17, 2009, Decedent married his second wife, Beatrice Lehman, on or about December 30, 2010.
12. Beatrice and Decedent executed a prenuptial agreement in which Decedent was required to provide Beatrice with \$200,000.00 in the event of Decedent's death. (Pet.'s Ex. 10)

### Decedent's Wills

13. During his lifetime, Decedent executed the following wills:
  - a. Will dated May 13, 1991 (the "1991 Will") (Pet.'s Ex. 6).
  - b. Will dated December 30, 2010 (the "2010 Will") (Pet.'s Ex. 5).
  - c. Will dated April 14, 2011 (the "2011 Will") (Pet.'s Ex. 4).
  - d. Will dated December 4, 2014 (the "2014 Will") (Pet.'s Ex. 3).
  - e. Will dated June 19, 2015 (the "2015 Will") (Pet.'s Ex. 2).
14. In the 1991 Will, all four (4) of Decedent's children are equal beneficiaries. In the 1991 Will, Decedent named his wife Jeanne as his executor, Wanda as first alternate executor, and Sheldon as second alternate executor. (Pet.'s Ex. 6).
15. In the 2010 Will (executed after Jeanne's death and after his marriage to Beatrice), all four (4) of Decedent's children are equal beneficiaries and all four (4) of his children are co-executors, with the provision that any deadlock amongst his children in the administration of his estate would be determined by Sheldon. (Pet.'s Ex. 5).
16. In the 2011 Will, all four of Decedent's children are equal beneficiaries. Sheldon was the sole executor and Lindy was the alternate executor. (Pet.'s Ex. 4).
17. In the 2014 Will, Annette's share was to pass to Annette's Grandchildren. Sheldon was the sole executor under the 2014 Will with Lindy as the alternate executor. (Pet.'s Ex. 3).

18. The 2015 Will was exactly the same as the 2014 Will with the exception of a change to a bequest to Beatrice in the amount of \$200,000.00 in satisfaction of Decedent's obligations pursuant to his prenuptial agreement with Beatrice. (Pet.'s Ex. 2).
19. The 2015 Will was admitted to probate by decree of the Adams County Register of Wills on August 9, 2016. No party filed an appeal challenging the validity of the 2015 Will within one-year from the decree of probate as required by 20 Pa. C.S. §908.

#### Sheldon Lehman Background

20. Sheldon is a graduate of York College and received a Master's degree in Finance from Mount Saint Mary's in Emmitsburg, Maryland. (Sheldon N.T. 9/10/20 pg. 272).
21. Sheldon's CRD Report (Pet.'s Ex. 48) demonstrated that Sheldon was a licensed broker and passed the General Securities Representative Examination (Series 7), the Uniform Securities Agent State Law Exam (Series 63) and Uniform Investment Advisor Law Exam (Series 65) in 1995. (Pet.'s Ex. 48).
22. Sheldon was a registered broker from April of 1995 until January of 2012. (Pet.'s Ex. 48).
23. Sheldon formed Lehman Advisors in May of 2007 and registered as a "broker dealer" with 1717 Capital Management Company and then Investors Capital Corp in July of 2008 until January of 2012, when Lehman Capital Advisors was registered as an independent firm.
24. On December 30, 2011, Decedent appointed Sheldon as his general power of attorney (hereinafter "POA") and his health-care power of attorney (Pet.'s Ex. 13). No evidence or testimony was presented that Decedent lacked capacity to execute the POA in December of 2011 or that the POA was procured through undue influence.
25. Beginning in or about 1991 until Decedent's death in 2016, Decedent engaged the law firm of Barley Snyder and Harry "Bud" Rubin, Esquire (hereinafter "Attorney Rubin"), to handle most of Decedent's legal matters.

26. Attorney Rubin died on March 18, 2018, at age 89 as a member of Barley Snyder and was a trust and estate lawyer for over 40 years.

#### Decedent's Trusts

27. During their lifetimes, Decedent and his first wife, Jeanne, purchased a Phoenix Life Insurance Policy on October 8, 1987 naming all four (4) of his children as joint owners equally. (Pet.'s Ex. 9).
28. On September 23, 1992, Decedent created three (3) Irrevocable Trusts with the following beneficiaries:
- a. Irrevocable Trust No. 1 was for the benefit of Wanda, Lindy and Sheldon (Pet.'s Ex. 18);
  - b. Irrevocable Trust No. 2 was for the benefit of Annette's daughter, Wendy (Pet.'s Ex. 19);
  - c. Irrevocable Trust No. 3 was for the benefit of Annette's son, Christopher. (Pet.'s Ex. 20).
29. On December 28, 1993, Decedent and Jeanne created a fourth (4th) Irrevocable Trust which divided the trust corpus into four (4) shares with one (1) share going to Wanda, one (1) share going to Lindy, one (1) share going to Sheldon, and one (1) share split equally between Annette's children, Wendy and Christopher. (Pet.'s Ex. 22).
30. On April 3, 2007, Decedent created a fifth (5th) Irrevocable Trust that benefited all four (4) of his children, including Annette, equally. (Pet.'s Ex. 25).

### Decedent's Transfer on Death Accounts

31. At the time of his death, Decedent owned (4) Transfer on Death Accounts (the "TOD Accounts") with the following companies, and with the following values as of the following dates of execution of the beneficiary designation:

Account	Date of Execution Of Beneficiary Designation	Value at Time of Distribution After Decedent's Death	Exhibit #
Trust Company of America Acct. No. XXX-328	1/26/12	\$2,022,042.01	Pet. Ex. 68 Pet. Ex. 72
Trust Company of America Acct. No. XXX-353*	11/18/14	\$896,982.86	Pet. Ex. 84 Pet. Ex. 88
Trust Company of America Roth IRA No. XXX-351	11/18/14	\$575,674.09	Pet. Ex. 76 Pet. Ex. 82
Genworth Annuity No. XXX-352	11/18/14	\$311,402.04	Pet. Ex. 91 Pet. Ex. 93

\* \$1.98 million was paid out of this account to each of Decedent's four (4) children, including Annette (\$495,000.00 to each child), while Decedent was living in June 2015.

32. The beneficiary designations on the TOD Accounts were each in favor of Wanda, Lindy, and Sheldon only. Annette was excluded. (Pet.'s Ex. 68, 76, 84, 91).
33. The Trust Company of America ("TCA") Account XXX-328 was opened on January 26, 2012 and Decedent named Wanda, Lindy, and Sheldon as the beneficiaries at the time this account was opened. (Pet.'s Ex. 68).
34. TCA Account Nos. XXX-351 and XXX-353 were opened on November 18, 2014 and Decedent named Wanda, Lindy, and Sheldon as the beneficiaries at the time these accounts were opened. (Pet.'s Ex. 76, 84).
35. The Genworth Annuity was opened in or about 2003 or 2004 as an Irrevocable Retirement Account. (Sheldon N.T. 9/10/20 pg. 448, 449). Initially, the beneficiaries of the Genworth Annuity were all four of Decedent's children. (Pet.'s Ex. 92). At some point, prior to March 31, 2010, Decedent changed the beneficiaries from his four (4) children to his estate. (Pet.'s Ex.



92). On November 18, 2014, Decedent created a new beneficiary designation for this account naming Wanda, Lindy, and Sheldon as the beneficiaries. (Pet.'s Ex. 91).

### Decedent's Background and Personality

36. Decedent was a successful businessman who rose to the position of Vice President in the Wolf Organization. (Sheldon N.T. 9/10/20 pg. 420).
37. Decedent was a sophisticated investor in terms of the value and the diversification of his investments. He was classified as an accredited investor by the U.S. Securities and Exchange Commission. (P. Rutledge 9/15/20 pg. 704, 705).
38. Decedent kept a very close eye on his investments and asked a lot of questions to make sure he understood them. (Sheldon N.T. 9/10/20 pg. 427, 428; N. Myers N.T. 9/11/20 pg. 575, 580).
39. Decedent was not one to be bullied or coerced into anything by anyone. Indeed, Decedent was strong willed and all his children either got in line with Decedent's will or suffered the consequences. (Lindy N.T. 9/11/20 pg. 589 "...my dad not only showed his love with his money, he showed his anger with his money...you cross him too far and he will use his money against you.").
40. Everyone who knew Decedent and testified admitted that he was an extremely strong-willed person. (O. Murillo N.T. 9/8/20 pg. 74—"Yes, he was pretty headstrong."; O. Murillo N.T. 9/8/20 pg. 75 —"Once he made decisions whether they were bad or good, he went with that decision." O. McBeth N.T. pg. 120—"[H]e was opinionated and I think if he felt things should be done a different way he was going to stand up for himself."; Sheldon N.T. 9/10/20 pg. 455—"I'll put it very bluntly, no one was going to change his mind. He made up his mind he was going to do what he wanted to do."; Wendy N.T. 9/11/20 pg. 510 "He liked to be in control...He didn't like to give up control so it was really difficult..."; Christopher N.T. 9/11/20 pg. 534, 535 "I was aware of tension that existed between my grandfather and any particular family member depending on the year. That's family. Pick your family

member, pick the time.”; N. Myers N.T. 9/11/20 pg. 579 “Once he made a decision as to this is what I want to do, that was it. He would listen to me, but that’s about as far as it would go... He would take what I would say, appreciate it, and he was in control.”; Lindy N.T. 9/11/20 pg. 601 “If he was angry at you, you were done.”)

41. Throughout his lifetime, Decedent frequently used threats concerning his wealth to control his family. As testified by Wendy Starnar:

Q. Did you ever hear your grandfather threaten to remove anyone from his will?

A. He would do that all the time, yes.

Q. Between 2014 and 2016?

A. Yes. He threatened to remove them all at one point. He actually made the comment that whoever would drive him home from the home, he would leave everything to them. My brother who is legally blind and actually he can't drive he said well, I should have drove him home, I might have got all the money. He would threaten people, threaten to take people out, that's how he controlled people.

Q. At one point he even threatened to give it all to a church, isn't that correct?

A. Yes, he threatened to give it all to the church, yes.

(Wendy N.T. 9/11/20 pg. 510).

42. As Wendy Starnar testified, “[The Decedent] conveyed his love through the distribution of his wealth and money.” (Wendy N.T. 9/11/20 pg. 503).

#### Decedent’s Relationship With Annette

43. Annette had a strained relationship with both Decedent and her mother, Jeanne. (Sheldon N.T. 9/10/20 pg. 424; Christopher N.T. 9/11/20 pg. 535, 536).
44. After a dispute in 1988, Annette ceased all communication with her parents until approximately 1996. (Sheldon N.T. 9/10/20 pg. 434, 435; Wendy N.T. 9/11/20 pg. 509; Lindy N.T. 9/11/20 pg. 597, 598).

45. During this period from 1988 until 1996, in addition to disassociating herself from her parents, Annette stopped speaking to Wanda, Lindy, Sheldon, and Annette's own daughter, Wendy. (Sheldon N.T. 9/10/20 pg. 435; Wendy N.T. 9/11/20 pg. 509; Lindy N.T. 9/11/20 pg. 597, 598).
46. Lindy testified that the family rift with Annette was one that her parents never fully recovered from:

Everybody knows it was really strained. It went to nothing and for many years our family said [Annette] stopped talking to my mom and dad. She and her husband stopped talking to everyone except their son. I don't know what it was about. I don't know why it happened. That wasn't my business but it was a blow to my parents that they never recovered from. My mom would go to the grocery store and it was a small town, one grocery store, Smiths, Annette would turn her head and walk away from her. It crushed my mother. What it did to my dad was —

THE WITNESS: Okay, expressed to me through being in the room with my husband and things, he would talk about the fact that this personal problem in his family reflected, he felt it reflected on him in his business life because Barry worked for my father, Annette's husband worked for my father and it went around. He worked very hard to get where he was. His job was important, his stature and his job was important. This was Wendell not being able to take care and manage his family and it just ate at his core. He had to go in and face the Wolfe people and they knew his life was in disarray in his private life.

(Lindy N.T. 9/11/20 597, 598).

47. Annette's status as an heir of Decedent fluctuated throughout Decedent's lifetime depending upon whether Annette was in Decedent's good graces. In 1987, she was in. (Pet.'s Ex. 9). In 1991, she was in. (Pet.'s Ex. 6). In 1992, she was out. (Pet.'s Ex. 18, 19, 20). In 1993, she was out. (Pet.'s Ex. 22). In 2007, she was in. (Pet.'s Ex. 25). In 2010, she was in. (Pet.'s Ex. 6). In 2011, she was in. (Pet.'s Ex. 4). In 2012, she was out. (Pet.'s Ex. 68). In 2014, she was out. (Pet.'s Ex. 3, 76, 84, 91). In 2015, she was out. (Pet.'s Ex. 2).

48. Decedent's other three (3) children, Wanda, Lindy, and Sheldon were never removed from Decedent's testamentary documents at any point during this period of approximately thirty (30) years.
49. Approximately one week before executing the January 26, 2012 beneficiary designation for the non-probate TOD Account excluding Annette, Decedent drafted a handwritten letter in which he described Annette as a "big problem" because Annette refused to cooperate with her other siblings in real estate Decedent had given them jointly. (Resp. Ex. 6-7; Sheldon N.T. 9/10/20 pg. 440, 442).
50. On October 28, 2014, Decedent had an appointment with Dr. Murillo during which Dr. Murillo informed Decedent that Decedent should stop driving. (O. Murillo N.T. 9/8/20 pg. 75).
51. Annette was present at the October 28, 2014 appointment with Dr. Murillo, as was Decedent's wife, Beatrice. Annette told Decedent that she agreed with Dr. Murillo that Decedent should no longer drive. Decedent became extremely angry at Annette and at Dr. Murillo and fired Dr. Murillo as his primary physician. (O. Murillo N.T. 9/8/20 pg. 31,32, 75, 77).
52. Annette responded to a November 13, 2014 email from Sheldon, stated she had met with Decedent and Beatrice earlier that day and Decedent was still angry with her (referencing the October 28, 2014 appointment with Dr. Murillo). (Sheldon 9/10/20 pg. 386, 387).

#### Medical Testimony Concerning Decedent

53. Dr. Oscar Murillo was Decedent's primary care physician board certified in Internal Medicine and Geriatrics who testified he sees patients with cognitive disorders and dementia on a daily basis. (Pet.'s Ex. 135, O. Murillo N.T. pg. 17).
54. Dr. Murillo was treating Decedent as of March 2, 2010 (O. Murillo N.T. 9/8/20 pg. 20) and continued to do so until he was fired by Decedent on October 28, 2014. (O. Murillo N.T. 9/8/20 pg. 21, 31, 32).
55. Decedent's first mental evaluation occurred on May 7, 2013 when he took the SLUMS test while at an appointment with

- Dr. Murillo and scored a 25 out of 30 possible points. (O. Murillo N.T. 9/8/20 pg. 62; Ex. 135).
56. A SLUMS test stands for Saint Louis University Mental Status Exam and measures cognition based on a 0 to 30 scoring scale. (O. Murillo N.T. 9/8/20 pg. 39; B. Rovner N.T. 9/8/20 pg. 134).
  57. For a high school graduate, as Decedent was, a SLUMS score of 21 to 26 falls within the mild cognitive impairment range. (O. Murillo N.T. 9/8/20 pg. 39). A score of below 20 points is indicative of dementia. (O. Murillo N.T. 9/8/20 pg. 48).
  58. Mild neurocognitive disorder (mild cognitive impairment), according to the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, is modest cognitive decline in one or more cognitive domains (executive function, complex attention, learning/memory, language, perceptual-motor ability, or social cognition) that does not substantially interfere with everyday activities. (Pet.'s Ex. 141 pg. 15).
  59. Prior to May of 2013, Dr. Murillo had never observed anything in Decedent's behavior to make Dr. Murillo believe Decedent had any cognitive problems and neither Decedent nor any of his children ever expressed any concerns about his cognition to Dr. Murillo. (O. Murillo N.T. 9/8/20 pg. 77, 78).
  60. None of Decedent's medical records indicated any concerns about Decedent's mental status in January of 2012 when he signed the first non-probate TOD Account excluding Annette and Annette's entire bloodline. (B. Rovner N.T. 9/8/20 pg. 198, 199).
  61. On July 2, 2014, Decedent exhibited delirium that was treated as Listeria meningitis and was taken to the emergency room at the Hanover Hospital. Decedent was admitted to Hanover Hospital with a sudden change in mental status. (O. Murillo N.T. 9/8/20 pg. 62, 65). Dr. Murillo testified that delirium is a temporary condition secondary to an infection. (O. Murillo N.T. 9/8/20 pg. 35).
  62. While he was at Hanover Hospital suffering from the delirium episode, he scored a 22 out of a possible 30 on a Mini Mental Status Exam (MMSE). (O. Murillo N.T. 9/8/20 pg. 65; D. Miller N.T. 9/11/20 pg. 664).

63. Decedent was discharged from Hanover Hospital on July 14, 2014 and admitted to Homewood at Plum Creek Rehabilitation Center (“Homewood”) for intravenous antibiotic treatment and rehabilitation. (O. Murillo N.T. 9/8/20 pg. 62).
64. Decedent’s medical records indicate that by August 12, 2014, Decedent demonstrated “excellent problem-solving skills and was able to complete hypothetical scenarios.” (B. Rovner N.T. pg. 178, 179).
65. Prior to his discharge from Homewood, Decedent attended a meeting with his daughters, Wanda, Lindy and Annette, various members of the Homewood staff and Dr. Murillo (who arrived at the very end of the meeting). (O. Murillo N.T. 9/8/20 pg. 73, 74).
66. Everyone that was present at the August 18, 2014 meeting urged Decedent to remain at Homewood. (O. Murillo N.T. 9/8/20 pg. 74). Dr. Murillo specifically testified that he wanted Decedent to remain at Homewood. (O. Murillo N.T. 9/8/20, pg. 37). The Homewood staff’s records indicate that though they wanted him to stay at Homewood, Decedent was “absolutely against discharge to anything but home.” (B. Rovner N.T. 9/8/20 pg. 179).
67. During the meeting, Lindy raised a concern about Decedent’s ability to drive. (O. Murillo N.T. 9/8/20 pg. 33). As a result of these concerns, Dr. Murillo advised Decedent to undertake a driving test. (O. Murillo N.T. 9/8/20 pg. 37)<sup>1</sup>.
68. During the August 18, 2014 meeting Decedent had made up his mind, against the protestations of his daughters, the Homewood staff, and Dr. Murillo, that he was leaving Homewood on August 18, 2014 and no one could change it. (O. Murillo N.T. 9/8/20 pg. 74, 75; Lindy N.T. 9/11/20 pg. 587, 589 —“It got very heated. And he was like I’m going home and you can’t stop me. We couldn’t.”).

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<sup>1</sup> The Decedent took a driving simulation portion of the test, but never took the on road portion of the test. (O. McBeth N.T. 9/8/20 pg. 97)

69. None of his children agreed to take Decedent home from Homewood. In fact, prior to the meeting, Decedent had already made his own arrangements with Beatrice's son to take him home later that day. (Lindy N.T. 9/11/20 pg. 589).
70. Decedent was released from Homewood on or about August 18, 2014 and returned to his home. (O. Murillo N.T. pg. 62, 68). At the time of his discharge, Decedent scored a 14 out of 15 possible points on a cognitive assessment test. (O. Murillo N.T. pg. 68, 69).
71. After he left Homewood, Decedent hired caregivers to assist him at home. He would find something wrong with each caregiver and ultimately fire them. (Sheldon N.T. 9/10/20 pg. 380; Christopher N.T. 9/11/20 pg. 522, 523; Lindy N.T. 9/11/20 pg. 596).
72. After leaving Homewood, Decedent took a second SLUMS test on August 25, 2014 and scored a 24 out of 30 possible points. (O. Murillo N.T. 9/8/20 pg. 20-24, 66, 71). Dr. Murillo concluded that this score indicated that Decedent could continue making his own decisions (O. Murillo N.T. 9/8/20 pg. 46) and had recovered from the delirium incident. (O. Murillo N.T. 9/8/20 pg. 66).
73. On October 28, 2014, Decedent had an appointment with Dr. Murillo during which Dr. Murillo informed Decedent that Decedent should stop driving. (O. Murillo N.T. 9/8/20 pg. 75).
74. Annette was present at the October 28, 2014 appointment with Dr. Murillo, as was Decedent's wife, Beatrice. Annette told Decedent that she agreed with Dr. Murillo that Decedent should no longer drive. Decedent became extremely angry with Annette and with Dr. Murillo and fired Dr. Murillo as his primary physician. (O. Murillo N.T. 9/8/20 pg. 31, 32, 75, 77).
75. Annette called Lindy to report to Lindy the October 28, 2014 appointment, Lindy testified as follows about that conversation:
- She did. She got the short end of the stick that day. There was no doubt about it. None of us would have cared to have been there at that time. I don't think anybody else could go. She went that day with dad. God bless her for doing that, and she called me that night or shortly after the appointment,

I don't know what time it was. She said that Dr. Murillo said he needs — he has to stop driving and we need to take the keys and his car because if we just take the keys he'll call somebody and he'll have new keys made and I thought yep, he would. She said we have to go do this today. I said, Annette don't do this. Please. I will agree my dad wasn't the best driver at that point in time, but we all know if you give dad a little time he will come to that conclusion. You didn't force my father to do anything. If we had just massaged it a little bit and let him come to the conclusion that he would be better to do it, to make his own decision, he would and he did. He stopped driving. Going up there and forcing the issue was not how to do it and we all knew dad well enough to know that. Annette knew that.

(Lindy N.T. 9/11/20 pg. 590).

76. Dr. Murillo testified that every time Decedent came to his office, he always understood who Dr. Murillo was, why he was there and who else was with him. (O. Murillo N.T. 9/8/20 pg. 71, 72).
77. Dr. Murillo testified that the concerns about Decedent's driving test primarily related to reflexes and reaction time, which impact cognitive functioning, but do not invoke having the ability to take time to review and understand facts and then make decisions based on those facts. (O. Murillo N.T. pg. 82, 83, 84).
78. When Dr. Murillo signed an Affidavit prepared by Petitioners' Attorneys indicating that Decedent suffered from weakened intellect, Dr. Murillo did not know the legal definition of "weakened intellect" and believed it to be the same as "mild cognitive impairment." (O. Murillo N.T. pg. 85, 86)
79. Shortly after Decedent fired Dr. Murillo on October 28, 2014, he hired Dr. Orville Glen McBeth, Jr. ("Dr. McBeth") as his primary physician. (O. McBeth N.T. 9/8/20 pg. 90).
80. Dr. McBeth continued treating Decedent as his primary physician up until the time of Decedent's death on August 2, 2016. (O. McBeth N.T. 9/8/20 pg. 119). None of Dr. McBeth's records indicate that Dr. McBeth ever had any concerns about Decedent's mental status.



81. Dr. McBeth is board certified in family medicine. Approximately 45 percent of his patients are in a geriatric age group and he is familiar with treating patients who have neurocognitive disorders/dementia. (O. McBeth N.T. 9/8/20 pg. 90, 105).
82. Dr. McBeth first met with Decedent on November 13, 2014. (O. McBeth N.T. 9/8/20 pg. 91).
83. During the November 13, 2014 meeting with Dr. McBeth, Decedent spent a long time discussing the difficulties he was having with his children in relationship to his will. (O. McBeth N.T. 9/8/20 pg. 95). Decedent informed Dr. McBeth he was considering cutting one of his children out of his will. (O. McBeth N.T. 9/8/20 pg. 108).
84. During the November 13, 2014 appointment, Dr. McBeth obtained medical history, including medications, from Decedent. During this appointment, Dr. McBeth did not observe anything in Decedent's behavior that led him to believe a mental status test was necessary. (O. McBeth N.T. 9/8/20 pg. 106). Indeed, it was Dr. McBeth's impression that Decedent understood everything that was discussed during the November 13, 2014 meeting. (O. McBeth N.T. 9/8/20 pg. 109).
85. During Decedent's appointments with Dr. McBeth, Decedent did most of the talking and never said anything that led Dr. McBeth to believe he was cognitively impaired. (O. McBeth N.T. 9/8/20 pg. 127, 129).
86. During an appointment on May 11, 2015, Decedent expressed to Dr. McBeth that he was considering going into a nursing care facility. (B. Rovner N.T. 9/8/20 pg. 183).
87. On June 23, 2015, Dr. McBeth completed the medical portion of an application for admission of Decedent to an extended care facility. (N.T. pg. 114)
  - a. The form contained a box for dementia care that was not checked. (O. McBeth N.T. pg. 114; Res. Ex. 34)
  - b. Dr. McBeth checked the box "excellent" to describe Decedent's cognitive functioning. (O. McBeth N.T. pg. 115; Res. Ex. 34)

88. Decedent moved into the Brethren Home at Cross Keys in July of 2015 where he remained until October of 2015. After Decedent moved into the Brethren Home at Cross Keys, Beatrice left Decedent's residence and moved to the Thornwald Home retirement community home in Carlisle. Decedent returned to his home shortly thereafter. (Lindy N.T. 9/15/20 pg. 686, 687). Decedent's decision to go to a nursing facility in July of 2015 appeared to be orchestrated by Decedent to get Beatrice out of his home. Lindy testified:

In 2014 we all had a terrible argument with my father wanting him to stay at the home and he didn't. I heard the testimony for the first time in this courtroom that he asked Dr. McBeth to look into homes for him in 2015. My father asked him to do that. I never knew he did that. What he was doing was making the plan to go to the home in 2015. He chose to go to that home at that time. We moved him in. We all moved him in. Took all the stuff to make it happen thinking "Oh my gosh, dad is finally going to stay at the home." He stayed at the home long enough for Beatrice's children to move her out of his home and then he waited until they moved her to a home, a nursing home, and signed her in and then he waited another week or two and then he said I'm going home. He had planned the whole thing in order to get Beatrice out of his house. I didn't know it. I had no idea. I was blown away when I figured it out after the fact. When he went to McBeth and asked him that and I just learned it was like another piece of the puzzle how dad got himself admitted to the home. It was all dad's doing to get Beatrice out of the house.

I have to sit here and listen to people tell me my father didn't have his wits about him. That's pretty darn good for a man in his mid to high 80's to do that without one person knowing about it until after the fact.

(Lindy N.T. 9/11/20 pg. 593, 594).

89. When Decedent left the nursing home in October 2015, Lindy assisted Decedent in finding a caregiver to assist him. After interviewing a number of candidates, Decedent decided which caregiver to hire. (Lindy N.T. 9/11/20 pg. 595, 597).

90. Decedent ultimately returned to the Brethren Home at Cross Keys in July of 2016 and remained there until his death on August 2, 2016. (Lindy N.T. 9/15/20 pg. 688).
91. Dr. McBeth never diagnosed Decedent with dementia, nor did he feel that he was not capable of making his own decisions. (N.T. pg. 118).
92. Dr. McBeth did not believe that Decedent was susceptible to manipulation because he had opinions and attitudes that would not be swayed by others, including Sheldon. (N.T. pg. 118).
93. Many of Decedent's office visits with Dr. McBeth were long, and Dr. McBeth conversed primarily Decedent rather than the family members who were there with him. (O. McBeth N.T. pg. 127).
94. This Court finds the testimony of Dr. Murillo and Dr. McBeth credible.

*(continued to next issue 5/21/21)*



**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 CHARLES R. KRIETZ, SR. a/k/a CHARLES R. KREITZ, SR., DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Personal Representative: Terry E. Krietz, 151 Twin Lakes Drive, Gettysburg, PA 17325

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

**ESTATE OF ELAINE C. LEPPA a/k/a ELAINE W. LEPPA, DEC'D**

Late of Germany Township, Adams County, Pennsylvania

Co-Executors: Shaun M. Webb and Ryan G. Leppo, c/o Anthony J. Fitzgibbons, Esq., 279 North Zinns Mill Road, Suite D, Lebanon, PA 17042

Attorney: Anthony J. Fitzgibbons, Esq., 279 North Zinns Mill Road, Suite D, Lebanon, PA 17042

**ESTATE OF CARY A. MURPHY, DEC'D**

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

Executor: Barbara A. Yandrasitz, c/o Mark E. Halbruner, Esq., Halbruner, Hatch & Guise, LLP, 2109 Market Street, Camp Hill PA 17011

Attorney: Mark E. Halbruner, Esq., Halbruner, Hatch & Guise, LLP, 2109 Market Street, Camp Hill PA 17011

**ESTATE OF CALVIN E. UTZ, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Kathleen M. Grudberg, 1415 Frederick Pike, Littlestown, PA 17340

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**SECOND PUBLICATION**

**ESTATE OF BETTY H. BOHRER, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Personal Representative: Michelle L. Dominguez, 3 Hillcrest Drive, Biglerville, PA 17307

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**ESTATE OF JOYCE E. BROOKS, DEC'D**

Late of Berwick Township, Adams County, Pennsylvania

Executrix: Rebecca S. Roth, 136 Pin Oak Place, McSherrystown, PA 17344

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**ESTATE OF BONNIE P. CASHELL, DEC'D**

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: Raymond Lioi, c/o Kristen R. McGuire, Esq., Stock and Leader, 221 West Philadelphia Street, Suite 600, York, PA 17401

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**ESTATE OF MARY A. CLARKE a/k/a MARY CLARKE, DEC'D**

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**ESTATE OF LUTHER D. DICK, DEC'D**

Late of Tyrone Township, Adams County, Pennsylvania

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**ESTATE OF MICHAEL A. HUGGENS a/k/a MICHAEL ANDREW HUGGENS, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

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**ESTATE OF SYLVIA R. KRICHTEN, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

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Attorney: Erik D. Spurlin, Esq., MPL Law Firm LLP, 137 E. Philadelphia Street, York, PA 17401

**ESTATE OF MARY S. LAWRENCE, DEC'D**

Late of Conewago Township, Adams County, Pennsylvania

Steven N. Lawrence, 1420 New Chester Road, New Oxford, PA 17350

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**ESTATE OF ESSA FAYE LEESE, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Co-Executrices: Dixie Downin, Wanda Wallen, Sandra Duttera, Phyllis Duncan, Gwendolyn Lawrence, c/o Jennifer M. Stetter, Esq., Barley Snyder, LLP, 14 Center Square, Hanover, PA 17331

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**ESTATE OF ELEANOR I. LUDVICO a/k/a ELEANOR LUDVICO, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Loretta Ford a/k/a Loretta Ludvico, 3253 Muirfield Drive, Chambersburg, PA 17202

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**ESTATE OF ANTHONY A. OTTOMANO, DEC'D**

Late of Menallen Township, Adams County, Pennsylvania

Administrator: Anthony Michael Ottomano, c/o Erik D. Spurlin, Esq., MPL Law Firm LLP, 137 E. Philadelphia Street, York, PA 17401

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**ESTATE OF ANNA M. RILEY, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Linda R. Luckenbaugh, 691 Marsh Creek Road, Gettysburg, PA 17325

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**ESTATE OF ROBERT C. WAREHIME, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Lynn M. Coradi, 51 Elk Drive, Hanover, PA 17331

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

Continued on page 4

**SECOND PUBLICATION CONTINUED**

ESTATE OF SHIRLEY A. WILLIAMS  
a/k/a SHIRLEY T. WILLIAMS, DEC'D

Late of Mount Joy Township, Adams  
County, Pennsylvania

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Attorney: David K. James, III, Esq.,  
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ESTATE OF MERLE G. WOLF, III, DEC'D

Late of Menallen Township, Adams  
County, Pennsylvania

Administratrix: Jevy N. Wolf, 315-B  
West Point Road, Aspers, PA 17304

Attorney: John A. Wolfe, Esq. Wolfe,  
Rice & Quinn, LLC, 47 West High  
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**THIRD PUBLICATION**

ESTATE OF MARY YOUNGBLOOD  
DOOLEY, DEC'D

Late of the Borough of Gettysburg,  
Adams County, Pennsylvania

Executrix: Molly Dooley Wiles, 3140  
Nace Mill Lane, Glenville, PA 17329

ESTATE OF CHARLES T. DRYDEN,  
DEC'D

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

Executor: Glen C. Dryden, 2618  
Susanann Drive, Manchester, MD  
21102

ESTATE OF RAY E. DUTTERER, DEC'D

Late of the Borough of Gettysburg,  
Adams County, Pennsylvania

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Attorney: Todd A. King, Esq.,  
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ESTATE OF WILLIAM MILTON PERRY,  
JR., DEC'D

Late of Germany Township, Adams  
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Administratrix: Linda L. Santos, c/o  
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Attorney: Todd A. King, Esq.,  
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ESTATE OF HELEN H. SCHMIDT, DEC'D

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County, Pennsylvania

Co Executors: Carol J. Detweiler and  
Theodore C. Schmidt, c/o Barbara  
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