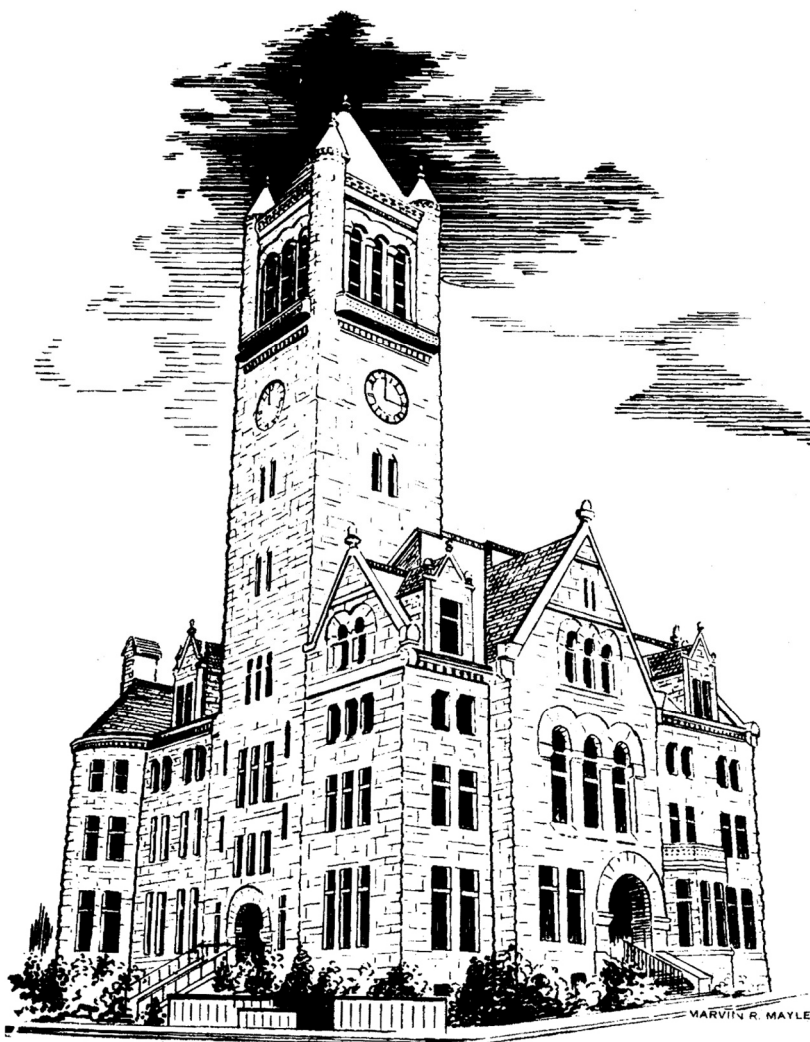


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Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors named.

Third Publication

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815B Memorial Boulevard
Connellsville, PA 15425
Attorney: Jennifer M. Casini

FRED P. CAROMANO, late of Uniontown, Fayette County, PA (3)

Administrator: Fred J. Caromano
c/o Adams Law Offices, PC
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

FRANCES J. FERENCAK, late of Connellsville, Fayette County, PA (3)

Executor: Deborah A. Ferencak
407 Amity Drive
Connellsville, PA 15425
c/o 310 Grant Street, Suite 1109
Pittsburgh, PA 15219
Attorney: Rosalie P. Wisotzki

EARL E. HARTMAN, late of South Connellsville, Fayette County, PA (3)

Personal Representative: Sherry L. Grote
c/o 208 South Arch Street, Suite 2
Connellsville, PA 15425
Attorney: Richard Husband

DANIEL F. MCDONOUGH, late of Dunbar, Fayette County, PA (3)

Personal Representative: Eileen Wood
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

KENNETH R. MYERS, a/k/a KENNETH RAY MYERS, late of Bullskin Township, Fayette County, PA (3)

Personal Representative: David Myers
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Robert A. Gordon

MARY FRANCES RYNCOISKY, late of Washington Township, Fayette County, PA (3)

Executrix: Brenda S. Kennedy
924 Alice Street
Belle Vernon, PA 15012
c/o 823 Broad Avenue
Belle Vernon, PA 15012
Attorney: Mark E. Ramsier

JANET A. PHELAN, a/k/a JANET ANN PHELAN, late of North Union Township, Fayette County, PA (3)

Executrix: Erin M. Hall
11 Cecil Drive
Dunbar, PA 15431
c/o David K. Lucas & Associates, PLLC
140 South Main Street, Suite 301
Greensburg, PA 15601
Attorney: David K. Lucas

OLIVER B. WEST, JR., late of Dawson Borough, Fayette County, PA (3)

Personal Representative:
Amanda M. Puskar
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

Second Publication

RICHARD F. DODD, late of Connellsville,
Fayette County, PA (2)
Personal Representative:
Joshua Ryan Dodd
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

**CONSTANCE L. GHRIST, a/k/a
CONSTANCE GHRIST, a/k/a CONNIE L.
GHRIST**, late of Connellsville, Fayette County,
PA (2)
Administrator: William Paul Ghrist
c/o Donald McCue Law Firm, P.C.
Colonial Law Building
813 Blackstone Road
Connellsville, PA 15425
Attorney: Donald J. McCue

FREDA MINER, a/k/a FREDA F. MINER,
late of Connellsville, Fayette County, PA (2)
Administratrix: Kimberly Brooks
156 Van Drive
Connellsville, PA 15425
c/o Tremba, Kinney, Greiner & Kerr, LLC
1310 Morrell Avenue, Suite C
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Attorney: John Greiner

**ELLIOT RAY MYERS, a/k/a ELLIOT R.
MYERS**, late of Wharton Township, Fayette
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Personal Representative:
Alexander James Myers
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

LINDA J. WILTROUT, late of South
Connellsville, Fayette County, PA (2)
Executor: Scott Dickert
c/o Proden and O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Sean M. Lementowski

First Publication

RALPH CATON, late of Georges Township,
Fayette County, PA (1)
Co-Administrators:
Mark Caton
106 Tyrone Avenue
Uniontown, PA 15401
Darlene Caton
2105 Morgantown Road
Uniontown, PA 15401
Douglas Caton
469 Augdon Drive
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c/o Radcliffe Law, LLC
648 Morgantown Road, Suite B
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Attorney: Robert R. Harper, Jr.

PHILIP J. JAWORSKI, late of Dunbar
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Personal Representative:
Theresa M. Jaworski
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Timothy J. Witt

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KONDRLA**, late of Georges Township, Fayette
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Attorney: Vincent J. Roskovensky, II

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Furnace, Fayette County, PA (1)
Executor: Joshua Michael Kremposky
c/o Proden and O'Brien
99 East Main Street
Uniontown, PA 15401
Attorney: Wendy L. O'Brien

STEPHEN MONACO, late of Lemont
Furnace, Fayette County, PA (1)

Personal Representative: Diana L. Monaco
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

HAROLD L. NICHOLSON, late of
Uniontown, Fayette County, PA (1)

Administrator: Austin C. Nicholson
c/o Monaghan and Monaghan, LLP
57 East Main Street
Uniontown, PA 15401
Attorney: Gary D. Monaghan

**CLAYTON SHOW, a/k/a CLAYTON
DAVID SHOW**, late of Hopwood, Fayette
County, PA (1)

Administratrix: Ashley Show
c/o Kopas Law Office
556 Morgantown Road
Uniontown, PA 15401
Attorney: John Kopas

**LOUISE WILLIAMS, a/k/a BETTY LOUISE
WILLIAMS**, late of Jefferson Township,
Fayette County, PA (1)

Executrix: Lynn Protos
c/o Adams Law Offices, PC
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

GEORGE WILLIAMS VAVASES, late of
Star Junction, Fayette County, PA (1)

Administratrix: Wendy Barbeau
c/o Goodwin Como, PC
108 North Beeson Boulevard, Suite 400
Uniontown, PA 15401
Attorney: Amanda Como

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Administrator: Gregory R. Stark
138 Stratford Center
New Stanton, PA 15672
c/o Leech Tishman Fuscaldo & Lampl
525 William Penn Place 28th Floor
Pittsburgh, PA 15219
Attorney: Melanie E. Cuddyre

LEGAL NOTICES

CIVIL ACTION
COURT OF COMMON PLEAS
FAYETTE COUNTY, PA
CIVIL ACTION-LAW
NO. 2022-00847
NOTICE OF ACTION IN MORTGAGE
FORECLOSURE

LAKEVIEW LOAN SERVICING, LLC,
Plaintiff

v.

JACQUELINE PERRYMAN, IN HER
CAPACITY AS ADMINISTRATRIX AND
HEIR OF THE ESTATE OF TRAVIS R.
PERRYMAN A/K/A TRAVIS RAY
PERRYMAN; HARRY R. PERRYMAN, IN
HIS CAPACITY HEIR OF TRAVIS R.
PERRYMAN A/K/A TRAVIS RAY
PERRYMAN; UNKNOWN HEIRS,
SUCCESSORS, ASSIGNS, AND ALL
PERSONS, FIRMS, OR ASSOCIATIONS
CLAIMING RIGHT, TITLE OR INTEREST
FROM OR UNDER TRAVIS R. PERRYMAN
A/K/A TRAVIS RAY PERRYMAN,
Defendants

To: UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS, AND ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER TRAVIS
R. PERRYMAN A/K/A TRAVIS RAY
PERRYMAN Defendant(s), 815 HIGH RD
DUNBAR, PA 15431

COMPLAINT IN MORTGAGE FORECLOSURE

You are hereby notified that Plaintiff,
LAKEVIEW LOAN SERVICING, LLC, has
filed a Mortgage Foreclosure Complaint
endorsed with a Notice to Defend, against you in
the Court of Common Pleas of FAYETTE
County, PA docketed to No. 2022-00847,
seeking to foreclose the mortgage secured on
your property located, 815 HIGH RD
DUNBAR, PA 15431.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you
wish to defend against the claims set forth in this
notice you must take action within twenty (20)
days after the Complaint and Notice are served,
by entering a written appearance personally or
by attorney and filing in writing with the Court
your defenses or objections to the claims set
forth against you. You are warned that if you fail

to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

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ATTORNEYS FOR PLAINTIFF
Jenine Davey, Esq. ID No. 87077
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

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JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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A DECADE OF EXPERIENCE

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WILL TRAVEL

ACCEPTING NEW CLIENTS

JUDICIAL OPINION

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

CAROL L. HALFHILL,	:	
Plaintiff,	:	
v.	:	
RON ROMEO d/b/a	:	
ULTIMATE STRUCTURES,	:	No. 186 of 2022 G.D.
Defendant.	:	Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.

July 7, 2022

SUMMARY

Plaintiff, Carol Halfhill, filed an Amended Complaint on March 14, 2022 alleging breach of contract by Defendant, Ron Romeo d/b/a Ultimate Structures. Defendant filed Second Preliminary Objections on March 30, 2022, which are now before this Court for consideration. Defendant's Preliminary Objection 1 (demurrer) as under Pa.R.Civ.P. 1028(a)(4) argues that Plaintiff has failed to plead sufficient facts to support a breach of contract claim, and Defendant's Preliminary Objection 2 argues that Plaintiff has failed to join necessary parties as set forth in Pa.R.Civ.P. 1028(a)(5).

BACKGROUND

This case arises as an appeal from a January 12, 2022 magisterial district judgment in Plaintiffs favor against two defendants, Ron Romeo and Ultimate Structures, in the amount of \$1,784.75. {1} Plaintiff filed an initial Complaint pro se on February 18, 2022 in response to the appeal, and Defendant filed initial Preliminary Objections on March 4, 2022. No oral argument or briefing schedule was requested.

Plaintiff thereafter filed a timely Amended Complaint on March 14, 2022 and attached two documents that were not filed with the initial Complaint: a photocopy of an order form and a printed email message with the image of a credit card charge slip. Defendant filed Second Preliminary Objections on March 30, 2022. Plaintiff did not file a response or second amended complaint, and on May 18, 2022, Defendant moved to schedule oral argument and establish a briefing schedule, which this Court did via order on May 26, 2022. Plaintiff did not serve or file a brief by the established due date. On June 29, 2022, Defendant's counsel moved to cancel (waive) oral argument and allow a decision on the Second Preliminary Objections based on the record. {2} That motion was granted on June 30, 2022.

{1} This total includes civil judgment amount of \$1,669.50 plus costs of \$115.25.

{2} According to the motion, counsel for the Defendant contacted the Plaintiff, whose husband informed him that she would not appear at oral argument.

Defendant's Preliminary Objection 1 (demurrer) argues that Plaintiff has failed to plead sufficient facts to support a breach of contract claim. When considering a demurrer, the court must analyze the sufficiency of the facts as they are pled, and "[a] grant of demurrer is proper when the pleading is legally insufficient." *Joyce v. Erie Ins. Exchange*, 74 A3d 157, 166 (Pa. Super. Ct. 2013). In order to adequately plead breach of contract, the plaintiff must allege (1) the existence of a contract between the plaintiff and defendant, including essential terms of the contract; (2) a breach of a duty imposed by the contract, and (3) damages resulting from a breach such duty. *Id.* at 168; *Reeves v. Middletown Athletic Ass'n*, 866 A.2d 1115, 1125 (Pa. Super. Ct. 2004). When evaluating preliminary objections, a court may accept the Plaintiffs averments of facts as true but legal conclusions are not admissible, and so the conclusion that a legal duty exists must be supported by factual averments. *Joyce*, 74 A.3d at 168.

Here, Plaintiffs averment that there is a contract between Plaintiff and Defendant is a legal conclusion that requires pleading of sufficient facts, including agreed-upon essential terms. The Amended Complaint does not plead such facts. The order form attached to the Amended Complaint includes some details, including the handwritten dimensions for a structure; a handwritten total cost (including tax) of \$1,966.30; and the Defendant's name and address handwritten at the top of the form. It also bears handwritten notes indicating that the order was canceled, one of which is dated July 3, 2021. However, the form itself also bears the name and logo of Northern Steel Buildings and Structures (NSBS), and it was signed by the Plaintiff and an individual with the first name "Michele," who is not the Defendant named in this action. The order form cannot be considered factual support that there was an agreement between Plaintiff and Defendant when Defendant did not even sign it, and the Amended Complaint does not otherwise plead sufficient facts to support the claim. Therefore, the Amended Complaint is insufficient as under Pa.R.Civ.P. 1028(a)(4), and Preliminary Objection 1 is sustained.

Defendant's Preliminary Objection 2 argues that Plaintiff has failed to join necessary parties as set forth in Pa.R.Civ.P. 1028(a)(5). While a preliminary objection of legal insufficiency may be based only on the facts of record, an objection raised under Rule 1028(a)(5) goes outside the "four corners" of the pleading and so requires more than factual averments. *Murray v. American Lafrance, LLC*, 234 A.3d 782, 788 (Pa. Super. Ct. 2020), quoting Note to Pa.R.Civ.P. 1028(c)(2).

Here, Plaintiff attached documents the Amended Complaint, and so the record does include some evidence, but this is not enough to determine the issue. A party is considered to be indispensable to litigation "when his or her rights are so connected with the claims of the litigants that no decree can be made without impairing those rights." *Belliveau v. Phillips*, 207 A.3d 391, 397 (Pa. Super. Ct. 2019). The order form attached to the Amended Complaint shows "Ultimate Structures" handwritten next to the designation "Dealer." The printed email message attached to the Amended Complaint shows an image of a March 24, 2021 credit card charge slip for \$1,966.30 with "Ultimate Structures LLC" both at the top of the slip and as the name associated with the email address that sent the message to Plaintiff. Yet Defendant argues that NSBS "received and misappropriated" Plaintiffs payment and has the "singular interest" related to Plaintiffs claim. Defendant's Brief at 5, 6. Defendant also argues that the sole Defendant, "Ron Romeo d/b/a Ultimate Structures," does not even exist as a business. *Id.* at 5. There is simply not enough evidence to establish if, how, and to what extent Ultimate Structures

LLC and NSBS were involved in the matter, nor what their relationship is to each other and to the named Defendant. This Court cannot determine what the respective interests are, and so it also cannot determine to what extent those interests may be implicated in this action. Therefore, Preliminary Objection 2 as under Pa.R.Civ.P. 1028(a)(5) is dismissed.

ORDER

AND NOW, this 7th day of July, 2022, upon consideration of Defendant's Second Preliminary Objections, the current record, and Defendant's brief, it is ORDERED and DIRECTED that Preliminary Objection 1 is SUSTAINED. Preliminary Objection 2 is DISMISSED as there is insufficient evidence from which to determine the issue.

In accordance with Pa.R.Civ.P. No. 1028(d), the Plaintiff may plead over within thirty (30) days after Notice of this Order and file a second Amended Complaint.

BY THE COURT:
LINDA R. CORDARO, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, August 24th from 12:00 p.m. to 1:30 p.m.**
- Location: Courtroom No. 3 of the Fayette County Courthouse
- Discussion topics: **Impact of Imposter Syndrome, Stress, and Burnout**
- Presenter: Brian S. Quinn, Esquire -
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**** All fees to be paid at the door ****
A light lunch will be provided.

RSVP

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