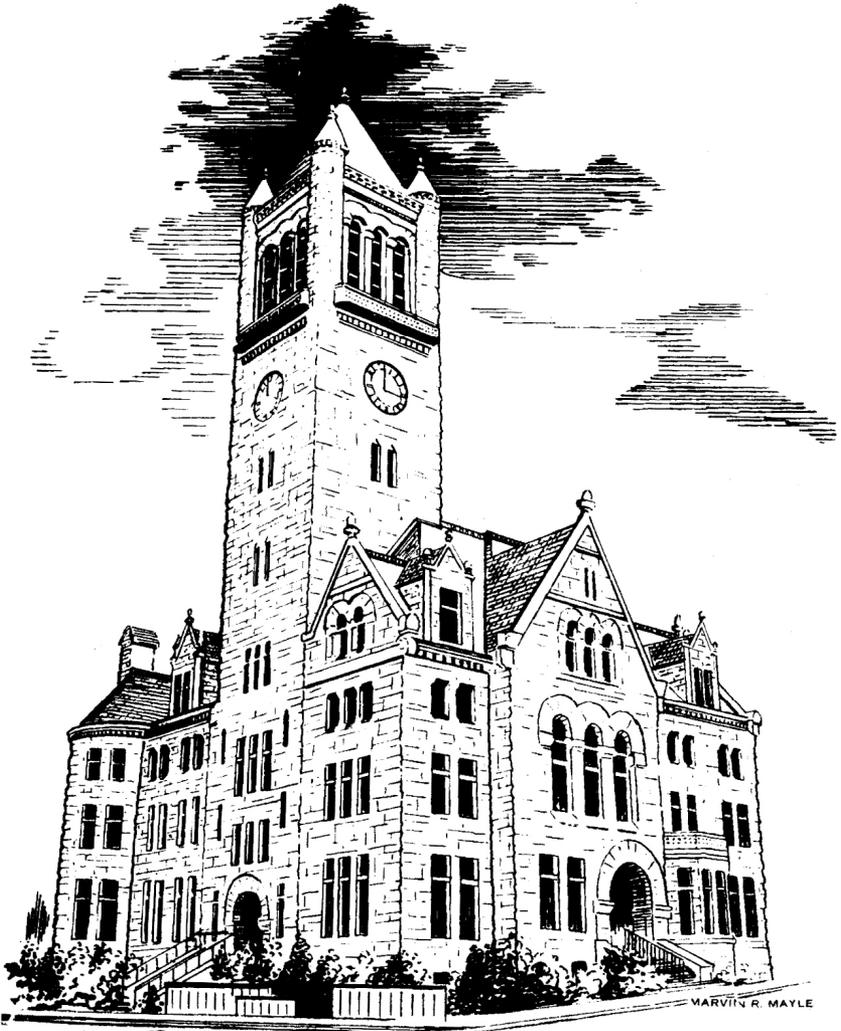


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Notice is hereby given that letters testamentary or of administration have been granted to the following estates. All persons indebted to said estates are required to make payment, and those having claims or demands to present the same without delay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

Third Publication

SCOTT LESLIE BASINGER a/k/a SCOTT L. BASINGER, late of Connellsville Township, Fayette County, PA (3)

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Connellsville, PA 15425

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Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

Second Publication

DONALD BAUMANN, late of Mount Pleasant, Fayette County, PA (2)

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206 Weldon Street
Latrobe, PA 15650
Attorney: Donald Rega

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Administrator: Keith Kuhns
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Attorney: Richard A. Husband

First Publication

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Attorney: Bernadette Tummons

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JUDICIAL OPINION

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

MICHAEL LATTANZO,	:
Plaintiff,	:
v.	:
DUNBAR TOWNSHIP, and NORTH FAYETTE	:
COUNTY MUNICIPAL AUTHORITY,	: NO. 892 OF 2025, G.D.
Defendants.	: Honorable Mark M. Mehalov

ATTORNEYS OF RECORD

Mr. Joel S. Sansone, Esquire, Counsel for the Plaintiff Mr. Eric M. Brown, Esquire
Counsel for Defendant

OPINION AND ORDER

MEHALOV, J.

February 10th, 2025

Before the Court are the Preliminary Objections of the Defendant, North Fayette County Municipal Authority, to the Complaint filed by Plaintiff on April 17th, 2025. After thoughtful consideration, we overrule the Preliminary Objections in their entirety.

DISCUSSION

In ruling on Preliminary Objections, the Court must accept as true all well-pleaded, material, and relevant facts. *Mellon Bank v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. 1994). However, "Conclusions of law, unwarranted inferred from the facts, argumentative allegations or expressions of opinion" do not require acceptance as truth. *Myers v. Ridge*, 712 A. 2d 791, 794 (Pa. Commw. 1998). Preliminary Objections, which, if sustained, would lead to dismissal of a cause of action, should be overruled unless the Preliminary Objections are "clear and free from doubt." *League of Women Voters of Pennsylvania v. Commonwealth*, 692 A. 2d 263, 267 (Pa. Commw. 1997).

In the instant case, Defendant North Fayette County Municipal Authority raised four (4) objections. Each is presented in the form of a Demurrer. The first of these was whether Plaintiffs claim for Negligence is barred by the two (2) year Statute of Limitations. The procedural history and facts averred in the Complaint are rather complex and lengthy. However, in deciding Preliminary Objections, we must take facts averred in a complaint in the light most favorable to Plaintiff. Thus, if the facts averred by Plaintiff are deemed to be correct, it could certainly be ascertained that the filing was timely and that a good-faith effort for service was made. As such, this must survive the preliminary challenge.

The second issue raised by Defendant is whether Plaintiffs Claim is barred by Governmental Immunity. 42 Pa. C.S.A § 8542 provides that a local governmental agency is not "...liable for any damages on account of any injury to a person or property caused by

any act of the local agency or an employee thereof or any other person" unless a statutory exception found in 42 Pa. C.S.A. § 8542 applies. Nine exceptions have been carved out to this statute. Plaintiff cites the utility service exception. Plaintiff further argues that this is a question for the fact-finder. *Le-Nature's vs. Latrobe Mun. Auth.*, 913 A.2d 988 (Pa. Cmwlth. 2006), appeal denied, 594 Pa. 717, 937 A.2d 447 (2007).

Thirdly, Defendant raises the question as to whether or not Plaintiff established that Defendant owed a duty of care to Plaintiff relating to the maintenance of the fire hydrant in question. Again, viewing the facts averred in the light most favorable to Plaintiff, as we are required to do in examining Preliminary Objections, it is possible a reasonable finder of fact could find that a duty was owed.

Similarly, the fourth and final issue raised by Defendant deals with the sufficient specificity of Plaintiffs pleadings to allow Defendant the ability to prepare a defense. Again, if one views all facts plead by Plaintiff in the light most favorable to Plaintiff, a proper negligence claim has been made. This statement does not speak to the merits of such claim, but rather that a sufficient claim has been made upon which Defendant may prepare a proper defense.

Thus, we must Overrule the Preliminary Objections of Defendant.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 10th day of February, 2026 upon consideration of Defendant North Fayette County Municipal Authority's Preliminary Objections to Plaintiffs Complaint, and Briefs of Counsel, it is hereby ORDERED and DECREED that Defendant's Preliminary Objections are OVERRULED in their entirety.

BY THE COURT:

MARK M. MEHALOV, JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

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

- Date: **Wednesday, March 25th** from **12:00 p.m. to 1:30 p.m.**
- Location: **Fayette County Courthouse - Courtroom Two**
- Discussion topic: **Municipal Law Update**
- Presenter: **Sarah S. Kefover, Esquire - McElroy Law Firm LLC**

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Attorneys admitted after January 1, 2021 - \$5

Non-members of the FCBA - \$40

**** All fees to be paid at the door ****

Lunch will be provided.

RSVP

If interested in attending, please call Leslie at the Bar office at 724-437-7994 or email to admin@fcbar.org on or before Monday, March 23rd.