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(USPS 102-900)

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CHESTER COUNTY BAR ASSOCIATION**

15 West Gay Street, 2nd Floor, West Chester, Pennsylvania 19380

**www.chescobar.org
gcunningham@chescobar.org**

Telephone: 610/692-1889 Fax: 610/692-9546

Richard Meanix, Editor

Assistant Editors

Patrick M. McKenna, Esquire

John Larkin, Esquire

Colleen M. Frens, Esquire

Richard Meanix, Chairperson-Publications Committee

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Lincoln Investors, L.P., et al. v. King, et al.

Civil action – Stormwater management act – Negligence – Trespass – Nuisance – Summary judgment – Statute of limitations – Discovery rule – Reasonable diligence – Continuing trespass – Permanent trespass

1. After the relevant pleadings are closed but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law (a) whenever there is no genuine issue of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or (b) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.
2. Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment.
3. Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which it bears the burden of proof establishes the entitlement of the moving party to judgment as a matter of law.
4. The record is reviewed in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party.
5. There is a strong policy in Pennsylvania courts favoring the strict application of statutes of limitation.
6. Statutes of limitation are designed to effectuate three purposes: (a) preservation of evidence; (b) the right of potential defendants to repose; and (c) administrative efficiency and convenience. For these reasons, a party asserting a cause of action is under a duty to use all reasonable diligence to be properly informed of the facts and circumstances upon which a potential right of recovery is based and to institute suit within the prescribed statutory period.
7. Once the applicable statutory period has expired, a party is barred from bringing suit unless an exception, such as the discovery rule, applies to toll the running of the statute.
8. The discovery rule allows a delay in the start of the statutory limitation on an action in tort because of a plaintiff's ignorance of his injury and its cause, until such time as he could or should have discovered it by the exercise of reasonable diligence.
9. Lack of knowledge, mistake or misunderstanding does not toll the running of

the statute of limitations.

10. It is a plaintiff's burden to justify any delay beyond the date on which the limitation would have expired. A plaintiff must allege and prove facts that show that he made reasonable efforts to protect his interests and that explain why he was unable to discover the operative facts for his cause of action sooner than he did.
11. The question of due diligence in discovering an injury is usually one for a jury's consideration. However, where the facts are neither disputed nor close, the decision on reasonableness is made by the court as a matter of law, instead of by the jury as a matter of fact.
12. Reasonable diligence is not an absolute standard, but is what is expected from a party who has been given reason to inform himself of the facts upon which his right to recovery is premised.
13. There are very few facts which diligence cannot discover, but there must be some reason to awaken inquiry and direct diligence in the channel in which it would be successful. This is what is meant by reasonable diligence.
14. The question in any given case is not, what did the plaintiff know of the injury done him, but, what might he have known, by the use of the means of information within his reach, with the vigilance the law requires of him.
15. While reasonable diligence is an objective test, it is sufficiently flexible to take into account the differences between persons and their capacity to meet certain situations and the circumstances confronting them at the time in question. Under this test, a party's actions are evaluated to determine whether he exhibited those qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of their own interest and the interest of others.
16. A continuing trespass is defined as an actor's failure to remove from land in the possession of another a structure, chattel or other thing which he has tortuously erected or placed on the land that constitutes a continuing trespass for the entire time during which the thing is wrongfully on the land and confers on the possessor of the land an option to maintain a succession of actions based on the theory of continuing trespass or to treat the continuance of the thing on the land as an aggravation of the original trespass.
17. A continuing trespass must be distinguished from a trespass which permanently changes the physical condition of the land. Thus, if one, without a privilege to do so, enters land of which another is in possession and destroys or removes a structure standing upon the land, or digs a well or makes some other excavation or removes earth or some other substance from the land, the fact that the harm thus occasioned on the land is a continuing harm does not subject the actor to liability for a continuing trespass. Since his or her conduct has once and for all produced a permanent injury to the land, the possessor's right is to a full redress in a single action for the trespass.

18. Pennsylvania courts have consistently and clearly described a continuing trespass as one that permits a plaintiff to bring distinct, yet successive actions. A continuing trespass is conduct that allows an injured party to bring actions for separate, independent injuries.
19. Since a continuing trespass occurs again each new day, damages arising from multiple and repeated occurrences are limited to those suffered within the statutorily limited period immediately prior to the commencement of the action.
20. A notice prerequisite to action against government unit applies to nuisance and trespass claims against governmental defendants. It requires that within six months from the date that an injury is sustained or any cause of action accrues, notice is be provided to the government unit against which an action is about to commence. If the required notice is not filed, any civil action or proceeding commenced more than six months after the date of injury shall be dismissed.
21. Plaintiffs brought suit against twelve defendants that they allege are responsible for flooding on their property. The defendants include private property owners in the surrounding area as well as governmental entities. Plaintiffs contend that the flooding is a direct result of defendants' actions, inactions and deficiencies existing in defendants' storm water management systems. Defendants filed for summary judgment and the Court Held, that motion was granted in part and denied in part.

P.McK.

C.C.P. Chester County, Civil Action – Law, No. 2012-06331-TT; Lincoln Investors, LP and Lincoln Court, Inc. v. Frank R. King, Jr. and Glenn A. King, Co-Executors of the Estate of Frank King, Lizelton Inc., Sam and Sal Associates, Glenn A. King, Cheryl King, William Mangan, 271, LP, East Whiteland Township, County of Chester, Pennsylvania Department of Transportation, Pennsylvania Department of Environmental Protection, Liberty Square Condominium Association, RFP Properties, Inc., FW Houder, Inc., Peter Krasas, Jr. and Associates, Inc., Edward B Walsh and Associates, Inc., Pickering Valley Contractors, Inc., Lyons & Hohl, and Pancoast & Clifford, Inc.

Kent E. Conway and Lance S. Rogers for Plaintiff
 Michael W. Wagman for Defendants Frank King, Glenn A. King,
 Cheryl King
 John D. Kearney for Defendant Lizelton Inc.
 Blair H. Granger and David J. Scaggs for Defendant Sam &
 Sal Associates
 Edward J. Jarosz for Defendant William J. Mangan

Gregory P. Voci and Edward J. Cermanski for Defendant 271 LP
Anthony R. Sherr and Lisa Ondich for Defendant East Whiteland
Township

Guy A. Donatelli for Defendant County of Chester

Neal T. Brofee for Defendant PennDOT

William H. Gelles for Defendant Pa. DEP

Gregory M. McNamee and Christina M. Kaba for Defendant Liberty
Square Condominium Association

Richard H. Morton for RFP Properties, Inc.

Alfred Rauch for Additional Defendant FW Houlder

David Thomas Bolger for Additional Defendant Edward B. Walsh &
Associates, Inc.

Tunnel, J., September 28, 2015:-

LINCOLN INVESTORS, LP : IN THE COURT OF COMMON PLEAS
LINCOLN COURT, INC., : CHESTER COUNTY, PENNSYLVANIA
Plaintiffs, ;
 : NO. 2012-06331
v. :
 : CIVIL ACTION – LAW
FRANK R. KING, JR. and GLENN A. :
KING, Co-Executors of the ESTATE :
OF FRANK KING, et al., :
Defendants. :

OPINION

Plaintiffs, Lincoln Investors, LP and Lincoln Court, Inc. (hereinafter the “Lincoln Plaintiffs” or “plaintiffs”), brought suit in June, 2012 against twelve defendants that they allege are responsible for flooding on their property. The defendants include private property owners in the surrounding area (Frank and Glenn A. King, Co-executors of the Estate of Frank King, Glenn and Cheryl King, Sam and Sal Associates, Inc., William J. Mangan, Liberty Square Condominium Association of Chester County and 271, L.P.) as well as governmental entities, the County of Chester, East Whiteland Township, and Pennsylvania’s Department of Environmental Protection and Department of Transportation. The Lincoln Plaintiffs contend that the flooding is a direct result of defendants’ actions, inactions and deficiencies existing in defendants’ storm water management systems. Plaintiffs’ Second Amended Complaint asserts a statutory claim for violation of the Storm Water Management Act, 32 P.S. §§ 680.1-680.17 (“SWMA”)(Count II – property owner defendants, Count III – governmental defendants and Count VI - equitable relief – property owner defendants, East Whiteland Township and the County of Chester) and common law claims for negligence (Count I – all defendants), trespass (Count IV – all defendants) and nuisance (Count IV – all defendants).

In May, 2013, defendant Sam and Sal Associates, Inc. (“SSA”) filed a joinder complaint naming Edward B. Walsh & Associates, Inc., Peter J. Krasas, Jr. & Associates, Inc. and F.W. Houder, Inc. as additional defendants. The additional defendants, according to SSA, were involved with SSA’s challenged property development.

Plaintiff/Intervenor Hanover Insurance Company (“Hanover”) provided insurance coverage for the Lincoln Court Shopping Center. According to Hanover, an August 13, 2013 flooding incident caused damage to the property for which Hanover paid plaintiffs. Hanover filed its intervenor complaint on September 12, 2014 and seeks to recover those monies from defendants.

Factual Background

The Lincoln Court Shopping Center, constructed nearly sixty years ago, sits on a 23 acre parcel located at 235 Lancaster Avenue, East Whiteland Township. The Center has been expanded throughout the years, with the most recent structural expansion taking place in 1988 and an expansion of the parking area performed in 2004. Its current configuration houses 184,000 square feet of retail space. (Pls.' Mem. in Resp. to Joint Mot. Summ. J. at 3.)

According to the Lincoln Plaintiffs, the property had been operating free of any flooding until Hurricane Floyd impacted the area in 1999. They allege that the next flooding event occurred four years later in 2003. Over the following eight years it is alleged by the Lincoln Plaintiffs that flooding at the property was sporadic and with the exception of a handful of storms, controlled. That changed, according to the Lincoln Plaintiffs, in 2011 when the nature of the flooding changed significantly. Two flooding events occurred that year and from that point on it is alleged that the incidents of flooding increased in frequency and intensity. (*Id.* at 4.)

As a result of the change, the Lincoln Plaintiffs engaged an engineer to look into the problem and design a solution. During a January, 2012 site walk with engineers the Lincoln Plaintiffs learned for the first time that the cause of the flooding stemmed from deficiencies and improper alterations to below ground storm water management systems existing on properties in the surrounding area. This suit was commenced soon thereafter in June, 2012.

In March, 2015, defendants filed a joint motion for summary judgment that seeks the dismissal of all of plaintiffs' non-equity claims (negligence, violations of the Stormwater Management Act, trespass, and nuisance) for having been filed untimely. This opinion resolves the legal issues presented in that motion. Individual summary judgment motions also were filed by the majority of defendants on a variety of issues. The court will address the legal issues raised in those motions in a separate order.

Standard for Summary Judgment

Pa.R.C.P. 1035.2 provides that:

After the relevant pleadings are closed but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law

(1) whenever there is no genuine issue of material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report, or

(2) if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment. “Failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which it bears the burden of proof . . . establishes the entitlement of the moving party to judgment as a matter of law.” *Young v. PennDOT*, 560 Pa. 373, 376, 744 A.2d 1276, 1277 (2000). The record is reviewed in the light most favorable to the non-moving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Pennsylvania State Univ. v. County of Centre*, 532 Pa. 142, 143-44, 615 A.2d 303, 304 (1992).

Defendants asserted the statute of limitations as an affirmative defense. The parties all agree that the applicable statute of limitations for each of the above claims is two years. When the statute of limitations began to run in this case is the point of dispute between the parties.

Defendants make the following arguments in support of their motion:

- (1) plaintiffs’ claims arose, and the statute of limitations began to run, in 1999 with the first admitted flooding (and necessarily the first injury); any action should have been filed within two years thereafter;
- (2) plaintiffs’ trespass and nuisance claims are “permanent” in nature such that the statute of limitations on these claims began to run with the first flooding in 1999;
- (3) even if the court deems the alleged trespass and nuisance claims to be continuing in nature, plaintiffs’ damages nonetheless are limited to those injuries that occurred in the two years prior to the filing of the complaint; and
- (4) the claims of plaintiff/intervenor Hanover, as subrogee, are barred or limited to the same extent as plaintiffs’ claims.

Plaintiffs agree that the first flooding event occurred in 1999 but they argue that they were unable to ascertain the facts surrounding and the causes of the flooding until 2012. Plaintiffs contend the “discovery rule” tolled the statute of limitations until 2012 when defendants’ deficiencies were discovered. The complaint, according to plaintiffs, was timely filed in June, 2012.

The “Discovery Rule” Did Not Toll the Statute of Limitations.**The discovery rule**

As the Superior Court recently reiterated in *Sabella v. Appalachian Dev. Copr.*, 103 A.3d 83 (Pa. Super. 2014), “there is a strong policy in Pennsylvania courts favoring the strict application of statutes of limitation[]. Statutes of limitation[] are designed to effectuate three purposes: (1) preservation of evidence; (2) the right of potential defendants to repose; and (3) administrative efficiency and convenience.” *Id.* For these reasons, “a party asserting a cause of action is under a duty to use all reasonable diligence to be properly informed of the facts and circumstances upon which a potential right of recovery is based and to institute suit within the prescribed statutory period.” *Id.* (quoting *Pocono Int’l Raceway, Inc. v. Pocono Produce, Inc.*, 503 Pa. 80, 85, 468 A.2d 468, 471 (1983)). Once the applicable statutory period has expired, a party is barred from bringing suit unless an exception applies to toll the running of the statute. One such exception is the “discovery rule.” *Pocono Int’l*, 503 Pa. at 85, 468 A.2d at 471.

The discovery rule allows a delay in the start of the statutory limitation on an action in tort because of a plaintiff’s ignorance of his injury and its cause, until such time as he could or should have discovered it by the exercise of reasonable diligence. *Sabella*, 103 A.3d at 92. The “discovery rule” arises “from the inability of the injured, despite the exercise of due diligence, to know of the injury or its cause.” *Pocono Int’l*, 503 Pa. at 85, 468 A.2d at 471 (emphasis added). Lack of knowledge, mistake or misunderstanding does not toll the running of the statute of limitations. *Id.*

It is a plaintiff’s burden to justify any delay beyond the date on which the limitation would have expired. A plaintiff must “allege and prove facts [that] show that he made reasonable efforts to protect his interests and [that] explain why he was unable to discover the operative facts for his cause of action sooner than he did.” *Sabella*, 103 A.3d at 92. The question of due diligence in discovering an injury is usually one for a jury’s consideration. However, where the facts are neither disputed nor close, the decision on reasonableness is made by the court as a matter of law, instead of by the jury as a matter of fact. *A.J. Aberman, Inc. v. Funk Bldg. Corp.*, 278 Pa. Super. 385, 420 A.2d 594 (1980). A court presented with an assertion of the applicability of the “discovery rule” must “before applying the exception . . . address the ability of the damaged party, exercising reasonable diligence, to ascertain the fact of a cause of action.” *Pocono Int’l*, 503 Pa. at 85, 468 A.2d at 471.

Plaintiffs’ causes of action were discoverable with the exercise of reasonable diligence.

The Supreme Court in *Fine v. Checcio*, 582 Pa. 253, 267, 870 A.2d 850,

858 (2005), articulated the standard that a court should use when determining whether or not a party has exercised ‘reasonable diligence’. The Supreme Court stated

reasonable diligence is not an absolute standard, but is what is expected from a party who has been given reason to inform himself of the facts upon which his right to recovery is premised. As we have stated: “‘[T]here are [very] few facts which diligence cannot discover, but there must be some reason to awaken inquiry and direct diligence in the channel in which it would be successful.’ This is what is meant by reasonable diligence.’ (citations omitted). Put another way, “[t]he question in any given case is not, what did the plaintiff know of the injury done him? [B]ut, what might he have known, by the use of the means of information within his reach, with the vigilance the law requires of him?” (citation omitted) While reasonable diligence is an objective test, “[i]t is sufficiently flexible. . . to take into account the difference[s] between persons and their capacity to meet certain situations and the circumstances confronting them at the time in question’ . . . Under this test, a party’s actions are evaluated to determine whether he exhibited “those qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of their own interest and the interest of others.”

Id. (emphasis added).

Applying the above standard to the facts of record in this action leads to the ineluctable conclusion that the plaintiffs failed to exercise the reasonable diligence required to trigger the “discovery rule”. The facts, as offered by plaintiffs, demonstrate that long ago they had been given “*reason to inform*” themselves of the facts upon which a cause of action due to the flooding might be based. They failed to do so.

The deposition testimony of plaintiffs’ representative and property manager since 1994, Michael Palladino, established the following:

- The first time there was a flooding event at the property was in 1999. (Palladino Dep. 3/28/14, at 18.)
- There was a water “event” or “flooding” every year from 1999 through 2003 on the subject property which was controlled by keeping “the drains clean, having pumps ready, sealing and sandbagging all the back doors.” (*Id.* at 30-31, 33.)
- During the above flooding events, the water reached six or seven feet up the wall of the back of plaintiffs’ property. (*Id.* at

34.)

- The next “flood event” occurred in 2003. (*Id.* at 30.)
- In 2003, there were several events, described as having been caused by localized storms, which were very damaging to the property. (*Id.* at 35, 37.)
- In 2003, the events “started to be frequent.” (*Id.* at 39.)
- In 2003, plaintiffs added an additional storm drain to the property. (*Id.* at 42.)
- In 2003, it was suggested that a berm be piled along the curb to slow down the water sheeting across the adjacent King property. The berm was erected in 2004, but removed as required by East Whiteland Township. (*Id.* at 43.)
- From 2003 until 2008 there was a “small lapse of some dry summers.” (*Id.* at 55.)
- Beginning in 2008, the events came with much more frequency. There were even more significant events after 2008. (*Id.* at 56-57.)

The above demonstrates that there was not just some, but ample reason “to awaken inquiry” within the plaintiffs. That being the case, plaintiffs were required to “direct diligence in the channel in which it would be successful.” In other words, plaintiffs should have utilized “those qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of their own interest and the interest of others.” *Sabella* at 267, 858. Instead, the record shows plaintiffs failed to take any action that would direct them in such a way that would lead to uncovering the cause of the flooding.

Mr. Palladino testified that

- In 2003, there were many contractors looking at solutions to the water issues. (Palladino Dep. 3/28/14, at 41 (emphasis added.))
- In 2003, there were “many suggestions by many vendors and contractors of what could be done” as to possible solutions. (*Id.* at 45 (emphasis added.))
- Following the event in 2008, no one was retained to investigate any causes of the flooding. Engineer Barry Isett was asked to “to engineer a solution to the problem.” (*Id.* at 58 (emphasis added.))

And most telling, and damaging for plaintiffs, is Mr. Palladino’s admission that Plaintiffs

“never asked [Barry Isett] to look into the causes. [Plaintiffs]

wanted to find a solution.” (*Id.* at 59.)

Plaintiffs, by their own choosing, directed their efforts toward finding a solution for the flooding, rather than its cause as required. They are thus precluded from asserting those claims now.

In an effort to excuse their lack of diligence, Plaintiffs argue that (1) the “nature” of the flooding changed in 2011 and before that time they had no reason to inquire into the cause of the flooding, (2) it wasn’t until 2012 when they had the “expertise” of their now engineering expert that plaintiffs learned for the first time that the cause of the flooding stemmed from deficiencies existing on defendants’ properties and storm water management systems running below ground and (3) until 2012, plaintiffs believed that the flooding stemmed from the undeveloped field on the adjacent property owned by defendant, the Estate of Frank King.

These arguments fail to protect plaintiffs.

First, although plaintiffs state that the “nature” of the flooding events changed in 2011, Mr. Palladino testified that what changed was the “frequency” of the flooding, not that the fact of flooding on the property. (Palladino Dep. 3/28/14 at 56-57.) Furthermore, although Mr. Palladino testified that between 1999 and 2003 there was no “damage” to the property, this was due to the fact that plaintiffs took efforts to prevent interior damage from the flooding, including sandbagging, sealing doors etc. (*Id.* at 31.) It did not mean, however, that there was an end to or break in the flooding that would have alleviated the need to inquire further into a cause.

Second, although it was not until 2012 that plaintiffs “learned for the first time that the cause of the flooding stemmed from deficiencies existing on defendants’ properties,” this fact also does not excuse plaintiffs’ failures. (Pls.’ Mem. in Resp. to Joint Mot. for Summ. J. at 6.) As the Pennsylvania courts have noted, “[t]he question in any given case is not, what did the plaintiff know of the injury done him? [B]ut, what *might he have known*, by the use of the means of information within his reach, with the vigilance the law requires of him?” *Fine*, 582 Pa. at 627, 870 A.2d at 858. Plaintiffs certainly knew of their injuries and were not prevented from knowing their cause, even if certain deficiencies were “subsurface” as argued. The record shows that what kept plaintiffs from “knowing” the cause of the flooding in this case was their failure, by choice, to ask the simple question: why is it flooding? If they had done so, as they finally did in 2012, they would have uncovered the answer. Once plaintiffs asked the relevant question in 2012, they readily found the answer.

Finally, whether or not plaintiffs thought the cause of the flooding was the King property, is not a fact that, if true, would toll the statute of limitations. As the court in *Pocono* made clear, a lack of knowledge, mistake or misunderstanding does not toll the running of the statute of limitations. *Pocono Int’l*, 503 Pa. at 85, 468 A.2d at 471.

Plaintiffs' Non-Equity Claims Are Narrowed by the Statute of Limitations

Plaintiffs' Negligence and SWMA Claims

The parties agree the statute of limitations for negligence or SWMA claims is two years. Because the discovery rule did not toll the statute of limitations in this case, defendants argue that plaintiffs non-equity claims are barred in their entirety. According to defendants, plaintiffs' action should have been commenced within two years of the first flooding event in 1999. In response, plaintiffs argue that, even if the discovery rule were found not to apply (as this court has now determined), 1999 cannot be the operative date for when the statute of limitations began to run because certain development about which they now complain had not even taken place by that time.

The Timing of Defendants' Alleged Actionable Conduct

According to plaintiffs' expert, Paul A. McNemar, P.E., and as set forth in his expert report, the actionable conduct of the defendants occurred as follows:

<u>DEFENDANT</u>	<u>ACTIONABLE CONDUCT BY YEAR</u>
Estate of Frank A. King (Pls.' Exp. Rpt. at 24.)	Pre-1999
Cheryl and Glenn A. King (Pls.' Exp. Rpt. at 59.)	1966
William J. Mangan (Pls.' Exp. Rpt. at 68.)	2005; ongoing failure to maintain sewer system
Sam and Sal Associates, Inc. (Pls.' Exp. Rpt. at 101.)	2003, October, 2010-forward
Liberty Square Condominium Association of Chester County (Pls.' Exp. Rpt. at 153.)	1996 and "sometime between 2004 and 2010"
271, L.P. (Pls.' Exp. Rpt. at 175.)	1971-1982, 2007
PennDOT (Pls.' Exp. Rpt. at 210.)	1997-2005
East Whiteland Township (Pls.' Exp. Rpt. at 224)	Negligent failure to enforce regulations – tied to latest development by property owner; surging waste water - no date provided for last flow
PennDEP (not mentioned)	Complaint alleges negligent failure to

	enforce regulations – tied to issuance of permits
County of Chester (not mentioned)	Complaint alleges negligent failure to enforce regulations – tied to latest development by property owner

In view of the above, for some defendants, the statute of limitations began to run on plaintiffs’ claims as early as 1999, and for the majority of the defendants, the statute of limitations began to run on plaintiffs’ claims as early as 2003 and at the latest in 2009. Plaintiffs’ claims based upon conduct that occurred during these years are time-barred as against those defendants. Thus, the negligence and SWMA claims against property owner defendants Frank R. and Glenn A. King, Jr., Co-executors of the Estate of Frank King, Cheryl and Glenn A. King, Liberty Square Condominium Association of Chester County, and 271, L.P., and governmental defendants PennDOT and PennDEP are therefore dismissed.

As for the negligence and SWMA claims against property owner defendants, William J. Mangan, SSA, and the governmental defendants the County of Chester and East Whiteland Township, any claims based upon changes to the properties or actions/inactions connected therewith that occurred earlier than June 12, 2010 are dismissed.

Plaintiffs’ Nuisance and Trespass Claims

Defendants also argue that plaintiffs’ nuisance and trespass claims are barred in their entirety because they are “permanent” in nature and the statute of limitations began to run at the time of the initial flood in 1999. Plaintiffs argue that the trespass and nuisance claims are “continuing” in nature, and therefore the statute of limitations begins to run again at each successive flow. Any damages, according to plaintiffs, may “relate back” to the initial event – the 1999 flood. Although the court agrees that plaintiffs’ nuisance and trespass claims are continuing, not permanent, in nature, it disagrees with plaintiffs that they are able to “relate” their damages back to 1999.

Permanent v. Continuing

The Restatement (Second) of Torts § 161, cmt. b (1965) defines a “continuing trespass” as follows:

The actor’s failure to remove from land in the possession of another a structure, chattel or other thing which he has tortuously erected or placed on the land constitutes a continuing trespass for the entire time during which the thing is wrongfully on the land and ... confers on the possessor

of the land an option to maintain a succession of actions based on the theory of continuing trespass or to treat the continuance of the thing on the land as an aggravation of the original trespass.

The Restatement (Second) of Torts § 162, cmt. e (emphasis added) distinguishes a continuing trespass from a permanent trespass as follows:

A continuing trespass must be distinguished from a *trespass which permanently changes the physical condition of the land*. Thus, if one, without a privilege to do so, enters land of which another is in possession and destroys or removes a structure standing upon the land, or digs a well or makes some other excavation or removes earth or some other substance from the land, the fact that the harm thus occasioned on the land is a continuing harm does not subject the actor to liability for a continuing trespass. Since his [or her] conduct has once [and] for all produced a permanent injury to the land, the possessor's right is to [a] full redress in a single action for the trespass.

In *Graybill v. Providence Twp.*, 140 Pa. Cmwlth. 505, 593 A.2d 1314 (1991), *aff'd*, 533 Pa. 61, 618 A.2d 392 (1993), the court examined the claims of a landowner who, like the plaintiffs in this case, brought an action for compensatory damages and equitable relief for a flooding condition that developed on his property that he alleged was caused by defendants' land development. The trial court determined that the statute of limitations had run on plaintiff's claims and entered summary judgment. On appeal, the *Graybill* court, after considering the above sections of the Restatement and reviewing prior case law, concluded that what had occurred on plaintiff's property was a continuing trespass.

The court summarized the material facts supporting its decision that a "continuing trespass" was involved as follows:

In the present case, Graybill has not alleged . . . that he suffers flooding after every rain. Rather . . . he alleges fewer than ten incidents of flooding over a period of almost four years, each at a time when he believes that the amount of rainfall was over one inch . . . Graybill has not alleged that the defendants' actions resulted in permanently submerging his land, or even that they caused such regular flooding as to have the same effect as submergence, causing him to abandon his house and to seek damages for its

full value.

The damages that Graybill has enumerated include the replacement of appliances such as furnace, hot water heater and washer and dryer. In a single action to recover all damages, past, present and future, it is impossible to calculate how many such replacements should be alleged. Under these facts, it is impossible to know exactly how many incidents of flooding would occur, and the severity of them.

The *Graybill* court then distinguished its facts from those that were before the Supreme Court in *Sustrik v. Jones & Laughlin Steel Corp.*, 413 Pa. 324, 197 A.2d 44 (1964), a case which also involved the question of continuing versus permanent trespass.

The facts of *Sustrik* involved injury similar to the examples given in both Restatements for a trespass that causes a permanent change: an *entry* onto the land of another and an affirmative act, such as an excavation, producing a permanent change *to that land itself*. The allegations of the present case concern acts of construction by the defendant Findleys upon their *own* land. Those acts did not directly and immediately cause any injury to Graybill's land; rather, those acts, coupled with the effects of rainfall, allegedly resulted in *consequential* damage to Graybill.

Graybill, 593 A.2d at 1316 (italics in original).

Recently, the Commonwealth Court revisited these same issues in *Lake v. The Hankin Grp., et al.*, 79 A.3d 748 (Pa. Cmwlth. 2013). Property owners brought an action against an uphill landowner, former uphill landowner, developer and engineering firm, which included claims for violations of the Storm Water Management Act, negligence in the design, construction, operation, and maintenance of storm water management system, nuisance, and continuing trespass. The trial court granted summary judgment in defendants' favor after finding the alleged trespass to be in the nature of a permanent trespass, and thus barred by the statute of limitations, and plaintiffs appealed.

The Commonwealth Court reversed the trial court's ruling after concluding that the description of the changes to the plaintiffs' property was more in the nature of a continuing trespass than a permanent one. *Id.* at 755. According to the *Lake* court,

although the subject claims do describe some permanent

changes to the Property allegedly caused by the flooding, the allegations also describe characteristics of continuing trespass. Notwithstanding that there have been sediment deposits and some physical damage to the Driveway has occurred, the Lakes also complain of the ongoing potential safety concerns as well as damage caused by continuing, periodic intrusion of the large amounts of water onto their property, along with the additional sediment deposits.

Because the matter was before the trial court at the summary judgment stage, where the record evidence must be viewed in the light most favorable to the plaintiffs, the Commonwealth Court held that dismissal of the claims was not appropriate.

The facts in this case, viewed in the light most favorable to plaintiffs, are similar to those in both *Graybill* and *Lake*. (See Second Am. Compl. and Mem. in Resp. to Joint Mot. Summ. J.) Thus, their holdings must apply here as well.

Plaintiffs have not alleged that the defendants' actions resulted in the permanent submersion of their land. Nor have they alleged that defendants' actions have caused such flooding as to have the same effect as submergence — described in *Graybill* as causing a plaintiff to abandon one's property and seek damages for its full value. This leads the court to conclude that the alleged actions/inactions of defendants are continuing, not permanent, in nature.

Limitations on Plaintiffs' Nuisance and Trespass Claims

In arguing that defendants' alleged misconduct is in the nature of a continuing nuisance, plaintiffs also assert that they may recover all damages that "relate back to 1999." According to plaintiffs, they are "unaware of any case law that limits damages in a continuing trespass situation, nor do Defendants cite any such case law." (Pls.' Mem. in Resp. to Joint Mot. Summ. J. at 14.) The court too was unable to find any Pennsylvania case law directly addressing this narrow issue.

Still left with the task of properly answering the question before it, the court undertook a review of Pennsylvania case law on continuing trespass, secondary legal sources and on-point decisions from other jurisdictions, which the court found persuasive, albeit non-binding, for guidance on this issue. Having done so, the court concludes that plaintiffs are entitled to recover only those damages that they incurred during the applicable statute of limitations.

Pennsylvania courts have consistently and clearly described a "continuing trespass" as one that permits a plaintiff to bring distinct, yet successive actions. The Superior Court in *Cassel Hess v. Hoffer*, 44 A.3d 80 (2012) restated the long understood principle of a "continuing trespass" — it is conduct that allows an injured party to bring actions for *separate, independent injuries*.

Likewise, in *Woods v. Pittsburgh Coal, et al.*, 230 Pa. 197 (1911) the Supreme Court defined cases involving continuing injury as those “where . . . every fresh injury is a ground of action, and the person whose property is injured thereby may maintain *separate and distinct suits* therefore, each embracing all causes of action therefrom up to the time of the action brought” (emphasis added).

The concept of separate and distinct actions for continuing injury is also mentioned in the Restatement (Second) of Torts § 161, cmt. b. (1965). It provides that in the case of a continuing trespass a possessor of the land has the option to “maintain a *succession of actions*.”

As properly summarized by the Colorado Court of Appeals in *Hawley v. Mowatt*, 160 P.3d 421 (Col. Ct. App. 2007) “since a continuing trespass occurs again each new day, damages arising from multiple and repeated occurrences . . . are limited to those suffered within the statutorily limited period immediately prior to the commencement of the action.”

In other words, each injury caused by the trespass generates its own action. Necessarily then each injury/action generates its own, distinct statute of limitations. Plaintiffs, therefore, may only bring an action and recover for those damages that occurred during the two years prior to the commencement of this action.

The claims against the governmental defendants are limited even further.

As raised by the County of Chester, PennDEP and PennDOT in their motions for summary judgment, a six month limitations period, known as the Notice Prerequisite To Action Against Government Unit, 42 Pa. Cons. Stat. §5522, also applies to plaintiffs’ nuisance and trespass claims against the governmental defendants. It requires that within six months from the date that an injury is sustained or any cause of action accrues, notice is be provided to the government unit against which an action is about to commence. If the required notice is not filed, any civil action or proceeding commenced more than six months after the date of injury shall be dismissed. *Id.* at §5522(a)(2).

Plaintiffs sent notice in May, 2012. Therefore, plaintiffs’ trespass and nuisance claims against the governmental defendants are limited to those claims based upon a “successive flow” that occurred and caused damage no earlier than six months before the issuance of plaintiffs’ notice.

Hanover’s Claims

Defendants conclude their motion by also challenging the validity of the claims asserted by Hanover in its intervenor complaint. According to defendants, Hanover, as plaintiffs’ subrogee, is subject to all of the same defenses that can be asserted against plaintiffs. The statute of limitations defense, therefore, affects Hanover in the same manner it affects plaintiffs. In its response to defendants’ motion, Hanover simply incorporated by reference the limitations arguments made

by plaintiffs in their response. It did not challenge the validity of the legal conclusion asserted by defendants regarding its subrogation claim.

Here, Hanover seeks to recover only those monies paid out as a result of a flooding event that occurred in 2013. Because the requested relief is tied to events that occurred within an applicable statute of limitations (two years prior to the plaintiffs' complaint), Hanover's claims remain viable but only to the extent that same claim is viable for plaintiffs given the court's rulings above.

An appropriate Order follows.

Date: 9/28/15

BY THE COURT:

/s/ Mark L. Tunnell J.

LINCOLN INVESTORS, LP : IN THE COURT OF COMMON PLEAS
LINCOLN COURT, INC., : CHESTER COUNTY, PENNSYLVANIA
Plaintiffs, :
 : NO. 2012-06331
v. :
 : CIVIL ACTION – LAW
FRANK R. KING, JR. and GLENN A. :
KING, Co-Executors of the ESTATE :
OF FRANK KING, et al., :
Defendants. :

ORDER

AND NOW, this 28th day of September, 2015, upon consideration of the Motion for Partial Summary Judgment of All Defendants and Additional Defendants Based on the Statute of Limitations, the responses thereto and following oral argument held on August 21, 2015, it is hereby ORDERED that the motion is GRANTED IN PART and DENIED IN PART as follows:

1. Judgment is hereby entered in favor of defendants Frank R. and Glenn A. King, Jr., Co-executors of the Estate of Frank King, Cheryl and Glenn King, Liberty Square Condominium Association of Chester County, and 271, L.P. on Count I (Negligence) and Count II (SWMA) and PennDOT and PennDEP on Count I (Negligence) and Count III (SWMA) of plaintiffs’ Second Amended Complaint and against plaintiffs Lincoln Investors, LP and Lincoln Court, Inc. in no amount;
2. Judgment is hereby entered in favor of defendants William J. Mangan and Sam & Sal Associates, Inc. on any claims asserted in Count I (Negligence) and Count II (SWMA) of plaintiffs’ Second Amended Complaint based on conduct prior to June 12, 2012 and governmental defendants the County of Chester and East Whiteland Township on any claims asserted in Count I (Negligence) and Count III (SWMA) of plaintiffs’ Second Amended Complaint based on conduct prior to June 12, 2012 and against plaintiffs Lincoln Investors, LP and Lincoln Court, Inc. in no amount;
3. Judgment is hereby entered in favor of all defendants on any claims asserted in Count IV (Trespass) and Count V (Nuisance) of plaintiffs’ Second Amended Complaint based upon conduct causing damage before June 12, 2010; and
4. The claims against Additional Defendants, Edward B. Walsh & Associates, Inc., and F.W. Houder, Inc. are limited in accordance with the above paragraphs; and
5. The claims of Plaintiff/Intervenor, Hanover Insurance Company, as sub-

rogee for plaintiffs Lincoln Investors, LP and Lincoln Court, Inc., are limited in accordance with the above paragraphs.

BY THE COURT:

/s/ Mark L. Tunnell, J.

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NOTICES

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**IN THE COURT OF COMMON PLEAS
CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW
NO. 15 08686**

NOTICE IS HEREBY GIVEN that the name change petition of Corinne Vera Green was filed in the above-named court and will be heard on December 14, 2015 at 9:30 AM, in Courtroom 3 at the Chester County Justice Center, 201 West Market Street, West Chester, Pennsylvania.

Date of filing the Petition: September 17, 2015

Name to be changed from: **Corinne Vera Green** to: **Corinne Vera Mazur**

Any person interested may appear and show cause, if any they have, why the prayer of the said petitioner should not be granted.

CORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Pennsylvania Department of State for **LOM-CON INC.**, in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988.

CORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Pennsylvania Department of State for **Hi-Tech Peat Moss, Inc.**, in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988. **BRUTSCHER FOLEY MILLINER & LAND, LLP**, Solicitors
213 East State St.
Kennett Square, PA 19348

DISSOLUTION NOTICE

NOTICE is hereby given to all interested persons or to any party who may be affected by **SOUTH STREET MANAGEMENT COMPANY, INC.**, a Pennsylvania business corporation, with its registered office at 649 W. South Street, Kennett Square, Pennsylvania 19348, that it intends to file Articles of Dissolution with the Department of State of the Commonwealth of Pennsylvania pursuant to the Pennsylvania Business Corporation Law of 1988, as amended, and that said corporation is winding up its affairs in the manner prescribed by said law so that its corporate existence shall cease upon the filing of said Articles of Dissolution.
Anita M. D'Amico, Esquire
204 N. Union Street
Kennett Square, PA 19348

ESTATE NOTICES

Letters Testamentary or of Administration having been granted in the following Estates, all persons having claims or demands against the estate of the said decedents are requested to make known the same and all persons indebted to the said decedents are requested to make payment without delay to the respective executors, administrators, or counsel.

1st Publication

ALVORD, Betty Jane, late of West Brandywine Township. Barry S. Rabin, 797 E. Lancaster Avenue, Suite 13 Downingtown, PA 19335, Executor. **BARRY S. RABIN**, Esquire, The Law Office of Barry S. Rabin, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, atty.

BOFFA, Jacqueline C., a/k/a Jacqueline Carr Boffa, late of East Goshen Township, Chester County, PA. Marc L. Davidson, Radnor Station Two, 290 King of Prussia Road, Suite 110, Radnor, PA 19087, Executor. MARC L. DAVIDSON, Esquire, Law Offices of Marc L. Davidson, LLC, Radnor Station Two, 290 King of Prussia Road, Suite 110, Radnor, PA 19087, atty.

BUCHER, Elizabeth D., a/k/a Elizabeth Dorothea Blanken Bucher, late of East Coventry Township, Chester County, Pennsylvania. Leslie A. Bucher, 42 Bragg Road, Schwenksville, PA 19473 and Joyce A. Allen, 312 Lexington Road, Schwenksville, PA 19473, Executrices. EDEN R. BUCHER, Esquire, Leisawitz Heller Abramowitz Phillips, P.C., 2755 Century Boulevard, Wyomissing, PA 19610, atty.

CANAVARRO, Herminio, a/k/a Herman P. Canavarro, late of West Goshen Township. Paul R. Canavarro, care of W. MARSHALL PEARSON, Esquire, 311 Exton Commons, Exton, PA 19341-2450, Executor. W. MARSHALL PEARSON, Esquire, 311 Exton Commons, Exton, PA 19341-2450, atty.

DIGRAZIO, Elizabeth D., late of Kennett Square Borough. Leitha A. Watkins, 275 N. Broad Street, Kennett Square, PA 19348, Executor. JERRY L. JOHNSON, Esquire, P.O. Box 218, 114 W. Lancaster Ave., Downingtown, PA 19335, atty.

DOUGLASS, SR., Keven B., late of West Chester. Heather J. Liberi and Paige K. Douglass, care of DOUGLAS E. GREGOR, Esq., Law Office of Douglas E. Gregor, Esquire, 16 Campus Blvd., Suite 200, Newtown Square, PA 19073, Executrices. Law Office of Douglas E. Gregor, Esquire, 16 Campus Blvd., Suite 200, Newtown Square, PA 19073, atty.

ELLIOTT, Robert G., late of West Whiteland. Robert G. Elliott, II, care of BARRY S. RABIN, Esquire, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, Executor. BARRY S. RABIN, Esquire, The Law Office of Barry S. Rabin, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, atty.

FINLEY, Stella M., late of West Nottingham, Chester County, PA. Jerry S. Finley, Sr., care of CLARENCE D. BELL, JR., Esquire, 280 N. Providence Rd., Media, PA 19063, Executor. CLARENCE D. BELL, JR., Esquire, 280 N. Providence Rd., Media, PA 19063, atty.

GREEN, JR., Jesse H., late of Pennsbury. Barbara G. Green, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Executrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

HAMMOND, R. Wayne, late of New Garden Township. Eleanor E. Hammond, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Executrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

KELLY, Jason P., late of Downingtown, PA. Michele Costello, care of RYAN M. BORNSTEIN, Esquire, 800 Lancaster Avenue, Suite T-2, Berwyn, PA 19312-1780, Administratrix. RYAN M. BORNSTEIN, Esquire, Harvey, Ballard & Bornstein LLC, 800 Lancaster Avenue, Suite T-2, Berwyn, PA 19312-1780, atty.

LEARY, Anna Mae, late of East Fallowfield Township. Michael T. Leary, care of LISA COMBER HALL, Esquire, 27 S. Darlington St., West Chester, PA 19382, Executor. LISA COMBER HALL, Esquire, Hall Law Offices, A Professional Corporation, 27 S. Darlington St., West Chester, PA 19382, atty.

LONG, George, late of Coatesville. Michael Long, Administrator.

MCCAFFERTY, Edward J., late of Penn Township, Chester County, PA. Donna McCummings, care of WILLIAM J. GALLAGHER, Esquire, 17 W. Miner Street, West Chester, PA 19382, Executrix. WILLIAM J. GALLAGHER, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

MERSON, Edward, late of Kennett Township. Anita Reilly, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Executrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

MISIEWICZ, JR., Charles J., late of West Caln. Deborah J. Habermann, care of BARRY S. RABIN, Esquire, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, Personal Representative. BARRY S. RABIN, Esquire, The Law Office of Barry S. Rabin, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, atty.

MONASTERO, Michael S., late of Phoenixville, PA. Frances D. Monastero, care of THOMAS A. PITT III, Esquire, 214 S. New Street, West Chester, PA 19382 Executor. THOMAS A. PITT III, Esquire, 214 S. New Street, West Chester, PA 19382, atty.

NORRIS, SR., Howard B., late of Schuylkill Township, Chester County, Pennsylvania. Gloria J. Berkheimer, care of DOUGLAS L. KAUNE, Esquire, 120 Gay Street, P. O. Box 289, Phoenixville, PA 19460, Executrix. DOUGLAS L. KAUNE, Esquire, Unruh, Turner, Burke & Frees, P.C., 120 Gay Street, P. O. Box 289, Phoenixville, PA 19460, atty.

PETERSEN, Merryfield L., late of Pennsbury Township. James L. Petersen, care of DONALD B. LYNN, JR., Esquire, P. O. Box 384, Kennett Square, PA 19348, Administrator. DONALD B. LYNN, JR., Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

STOLTZFUS, Robert I., late of Lancaster County, Sadsbury Township. B. Ellen Stoltzfus, care of JANIS M. SMITH, Esquire, 4203 West Lincoln Highway, Parkesburg, PA 19365, Executor. JANIS M. SMITH, Esquire, 4203 West Lincoln Highway, Parkesburg, PA 19365, atty.

TIGUE, Leo, late of East Bradford, Chester County, PA. Gregory J. Mattioni and Beatrice Tigue Duffy, care of DUKE SCHNEIDER, Esquire, 17 W. Miner Street, West Chester, PA 19382, Executors. DUKE SCHNEIDER, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

WEAVER, Virginia K., late of Caln Township. Craig E. Weaver, care of BARRY S. RABIN, Esquire, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, Personal Representative. BARRY S. RABIN, Esquire, The Law Office of Barry S. Rabin, 797 E. Lancaster Avenue, Suite 13, Downingtown, PA 19335, atty.

2nd Publication

ADDISON, Joyce, late of East Fallowfield Township. Jeffrey Addison, 230 New Street, Exton, PA 19341, Executor.

ASHINHURST, Orlyn J., late of Uwchlan Township, Chester County, PA. Tim J. Ashinhurst, 570 Creekside Drive, Souderton, PA 18964, Executor. STEPHEN M. LONG, Esquire, Long Law, LLC, 558 W. Uwchlan Ave., Exton, PA 19341, atty.

BRYANT, Marie Adele, late of East Caln Township. Warren R. Bryant, 303 East Pleasant Grove Rd., West Chester, PA 19382, Executor.

CLOUD, Margaret B., late of West Whiteland Township, Chester County, PA. Peter R. Guman, care of ANTHONY MORRIS, Esquire, 118 W. Market Street, Suite 300, West Chester, PA 19382-2928, Executor. ANTHONY MORRIS, Esquire, Buckley, Brion, McGuire, & Morris LLP, 118 W. Market Street, Suite 300, West Chester, PA 19382-2928, atty.

CONROY, Helen L., late of Devon, PA. Edward G. Conroy, Esquire, P.O. Box 885, West Chester, PA 19381-0885 Executor. EDWARD GERARD CONROY, Esquire, P.O. Box 885, West Chester, PA 19381-0885, atty.

COTTREL, Rene C., late of Honey Brook Township, Chester County, PA. Stephen C. Cottrel, care of LOUIS N. TETI, Esquire, 17 W. Miner Street, West Chester, PA 19382, Executor. LOUIS N. TETI, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

DANG, Lisa Anne, late of West Chester, PA. An Dang, 507 Owen Road, West Chester, PA 19380, Administratrix. MARIA D. FEENEY, Esquire, 621 Miller's Hill, Kennett Square, PA 19348, atty.

DEININGER, Jane K., late of West Chester, Chester County. Robert K. Deininger, care of JOSEPH J. DOUGHERTY, Esquire, 6 Ponds Edge Drive, Ste. 1, Chadds Ford, PA 19317,

Executor. JOSEPH J. DOUGHERTY, Esquire, Lyons Dougherty, LLC, 6 Ponds Edge Drive, Ste. 1, Chadds Ford, PA 19317, atty.

FERGUSON, Shirley W., late of West Caln Township. Mary F. Marsh and Kevin R. Ferguson, care of DENISE M. ANTONELLI, Esquire, 17 E. Gay Street, West Chester, PA 19381-0562, Executors. DENISE M. ANTONELLI, Esquire, Gawthrop Greenwood, PC, 17 E. Gay Street, West Chester, PA 19381-0562, atty.

FRAME, Ruth A., late of Honey Brook Township, Chester County, PA. Lewis R. Frame, Jr., care of ANTHONY MORRIS, Esquire, 118 W. Market Street, Suite 300, West Chester, PA 19382-2928, Executor. ANTHONY MORRIS, Esquire, Buckley, Brion, McGuire, & Morris LLP, 118 W. Market Street, Suite 300, West Chester, PA 19382-2928, atty.

GRAY, Phyllis W., late of West Brandywine Township, Chester County, PA. Deborah G. Stamm, care of DUKE SCHNEIDER, Esquire, 17 W. Miner Street, West Chester, PA 19382, Executrix. DUKE SCHNEIDER, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

HODGSON, William W., a/k/a William W. Hodgson, Sr., late of East Goshen Township. William W. Hodgson, Jr., care of TOM MOHR, Esquire, 301 W. Market Street, West Chester, PA 19382, Executor. TOM MOHR, Esquire, 301 W. Market Street, West Chester, PA 19382, atty.

HOWEY, Timothy, late of Downingtown. Eric Jensen, 393 Brookwood Drive, Downingtown, PA 19335, Executor.

HULLETT, Sandra E., a/k/a Sandra Lou Hullett, late of Eastown, Chester County, PA. Joseph W. Hullett and John Barnard Cornell, IV, care of BRADLEY D. TEREBELO, Esquire, 100 Four Falls, Suite 300, West Conshohocken, PA 19428, Executors. BRADLEY D. TEREBELO, Esquire, Heckscher, Teillon, Terrill & Sager, P.C., 100 Four Falls, Suite 300, West Conshohocken, PA 19428, atty.

JUNG, Jerry, late of East Goshen Township, Chester County, PA. Sara Ann Warren, care of PAUL C. HEINTZ, Esquire, One Penn Center, 19th Fl. 1617 JFK Blvd., Philadelphia, PA 19103-1895, Executrix. PAUL C. HEINTZ, Esquire, Obermayer Rebmann Maxwell & Hippel, LLP, One Penn Center, 19th Fl. 1617 JFK Blvd., Philadelphia, PA 19103-1895, atty.

KOWALICK, Dolores A., late of Phoenixville Borough, Chester County, PA. Andrew Kowalick, care of ROBERT B. ROTH, Esquire, 123 North Fifth Street, Allentown, PA 18102, Executor. ROBERT B. ROTH, Esquire, The Roth Law Firm, 123 North Fifth Street, Allentown, PA 18102, atty.

MALLATRATT, Richard D., late of Phoenixville Borough, Chester County, PA. Patricia Ann Conrad, 7 Shannon Way, Royersford, PA 19468, Executrix. GUY F. MATTHEWS, Esquire, Eckell, Sparks, Levy, Auerbach, Monte, Sloane, Matthews and Auslander, P.C., 344 W. Front Street, P.O. Box 319, Media, PA 19063, atty.

MCLEAN, IV, William L., late of the Township of Charlestown, Chester County, PA. Wendy W. McLean, 29 Sam Hill Rd., Malvern, PA 19355, Executrix. ALBERT P. MASSEY, JR., Esquire, Lentz, Cantor & Massey, Ltd., 460 E. King Road, Malvern, PA 19355, atty.

PARK, Anne, late of Coatesville, PA. Christine Campbell, 33 South Darlington St., West Chester, PA 19382, Personal Representative. WARREN H. PRINCE, Esquire, Prince Law Offices, P.C., 646 Lenape Road, Bechtelsville, PA 19505-9135, atty.

PETERS, Teena Ann, a/k/a Teena Ann Peters Pescatore, late of Phoenixville Borough. Glenn R. Diehl, 305 North High Street, West Chester, PA 19380, Executor.

SCHUTT, Katharine D., late of Chadds Ford. Charles P. Schutt, Jr., 419 Burnt Mill Road, Chadds Ford, PA 19317, Executor. TIMOTHY J. SNYDER, Esquire, Young Conaway Stargatt & Taylor, LLP, 1000 N. King Street, Wilmington, DE 19081, atty.

SEMERAD, Mark C., late of West Whiteland Township. Richard E. Semerad, care of W. MARSHALL PEARSON, Esquire, 311 Exton Commons, Exton, PA 19341-2450, Administrator. W. MARSHALL PEARSON, Esquire, 311 Exton Commons, Exton, PA 19341-2450, atty.

SMITH, Michael L., late of Kennett Square / East Marlborough Township. Maureen Wilson, P.O. Box 160, Ashton, MD 20861, Executrix. TIMOTHY J. SNYDER, Esquire, Young Conaway Stargatt & Taylor, LLP, 1000 N. King Street, Wilmington, DE 19081, atty.

SOCKOLOSKIE, Edward E., late of Coatesville. Walter J. Sockoloskie, 10 Featherwood Drive, Parkesburg, PA 19365, Executor.

WALLACE, Anthony Francis Clarke, a/k/a Anthony F. Wallace, late of West Sadsbury Township. Elizabeth Sun Ai Muldoon, 101 W. Main Street, Parkesburg, PA 19365, Executrix. JOHN S. CARNES, Esquire, 101 W. Main Street, Parkesburg, PA 19365, atty.

WINTERODE, JR., Albert J., late of West Chester. Susan L. Winterode, 1004 Mansion View Drive, West Chester, PA 19382, Executrix. CRAIG D. GREAR, Esquire, Young Conaway Stargatt & Taylor, LLP, 1000 N. King Street, Wilmington, DE 19081, atty.

YOUNG, Alma R., late of Oxford Borough. Sandra Paisley, 22874 Angola Road East, Lewes, DE 19958 and Marjory A. Moran, 33699 N. Heron Drive, Lewes, DE 19958, Executors. TIMOTHY H. KNAUER, Esquire, 218 W. Miner Street, West Chester, PA 19382, atty.

3rd Publication

ANDRESS, Mildred M., late of West Goshen Township, Chester County, PA. DNB First, N.A. c/o Amy Stout, care of ROBERT S. SUPPLEE, Esquire, 329 S. High St., West Chester, PA 19382-3336, Executor. ROBERT S. SUPPLEE, Esquire, 329 S. High St., West Chester, PA 19382-3336, atty.

AUGUSTINE, Scott Charles, a/k/a Scott C. Augustine, a/k/a Scott Augustine, late of Phoenixville Borough, Chester County, PA. Mason G. Augustine and Devin Marie Augustine, care of MARK A. GIAMPIETRO, Esquire, P.O. Box 267, Phoenixville, PA 19460-0267 Administrators CTA. MARK A. GIAMPIETRO, Esquire, P.O. Box 267, Phoenixville, PA 19460-0267, atty.

BARNARD, Frances L., late of North Coventry Township, Chester County, PA. Susan Marie Feist, 470 Corner Ketch Road Downingtown, PA 19335 and James Barnard, 2239 St. Peters Road, Pottstown, PA 19465, Executors. JOHN A. KOURY, JR, Esquire, O'Donnell, Weiss & Mattei, P.C., 41 East High St., Pottstown, PA 19464-5426, atty.

CIDIS, Demetrios A., a/k/a Demetrios A. Kyriakidis, late of Pennsbury Township, Chester County, PA. Marianne B. Cidis and Esther Houghton Cidis, care of EDWARD M. FOLEY, Esquire, 213 E. State Street, Kennett Square, PA 19348, Executrices. EDWARD M. FOLEY, Esquire, Brutscher Foley Milliner & Land, LLP, 213 E. State Street, Kennett Square, PA 19348, atty.

COUSINS, Samuel A., late of Pocopson Township, Chester County, PA. Judith F. Cousins and Elizabeth Cousins-Korrell, care of DANIEL A. CZAPLICKI, Esquire, 400 Maryland Drive, P. O. Box 7544, Fort Washington, PA 19034-7544 Executrices. DANIEL A. CZAPLICKI, Esquire, Timoney Knox, LLP, 400 Maryland Drive, P. O. Box 7544, Fort Washington, PA 19034-7544, atty.

DIAMOND, Elizabeth T., late of West Chester/West Whiteland Twp. Mary Elizabeth Diamond, care of SHILPA P. KHARVA, Esquire, 623 N. Pottstown Pike, Exton, PA 19341 Executrix. SHILPA P. KHARVA, Esquire, James B. Griffin, P.C., 623 N. Pottstown Pike, Exton, PA 19341, atty.

FIORENTINO, Albert R., late of Uwchlan Township, Chester County, PA. Christopher M. Fiorentino, care of TRISHA W. HALL, Esquire, 1000 West St., Ste. 1400, Wilmington, DE 19801 Executor. TRISHA W. HALL, Esquire, Connolly Gallagher, LLP, 1000 West St., Ste. 1400, Wilmington, DE 19801, atty.

GANDER, Frederick W., late of Penn Township. Hazel C. Gander, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348 Executrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

GNIAS, Anna M., late of Borough of Phoenixville, Chester County, PA. Joseph Gnias, 741 Libby Lane, Langhorne, PA 19053, Executor. JOHN J. KILCOYNE, Esquire, Kilcoyne & Kelm, LLC, P. O. Box 528, Worcester, PA 19490, atty.

HAUSSER, Edna L., late of West Brandywine Township, Chester County, PA. David A. Kelly, care of LOUIS N. TETI, Esquire, 17 W. Miner Street, West Chester, PA 19382, Executor. LOUIS N. TETI, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

HENDRICKSON, Joseph M., a/k/a Manly Joseph Hendrickson, late of New Garden Township. Joseph M. Hendrickson, Jr. and Joan Annette Ciuffetelli, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348 Executors. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

HULSE, Robin B., late of Uwchlan Township, Chester County, PA. Neal D. Hulse, care of KRISTEN R. MATTHEWS, Esquire, 17 W. Miner Street, West Chester, PA 19382, Administrator. KRISTEN R. MATTHEWS, Esquire, MacElree Harvey, Ltd., 17 W. Miner Street, West Chester, PA 19382, atty.

LEO, Phyllis C., late of West Grove. Patricia Eick, 1 Bittersweet Drive Cochranville PA 19330, Administratrix

MAGUIRE, Joseph Paul, late of New Garden Township. Barbara Maguire, care of L. PETER TEMPLE, Esquire, P. O. Box 384, Kennett Square, PA 19348, Administratrix. L. PETER TEMPLE, Esquire, Larmore Scarlett LLP, P. O. Box 384, Kennett Square, PA 19348, atty.

MCCOMSEY, Millard, late of Elk Township, Chester County, Pennsylvania. Robert McComsey, 549 W. Locust St. Oxford, PA 19363, Executor. IRA D. BINDER, Esquire, 227 Cullen Rd., Oxford, PA 19363, atty.

MOORE, Ann Marie, late of Borough of Downingtown, Chester County, PA. Melissa Yarrusso, care of RAYMOND J. PEPPELMAN, JR., Esquire, 1223 N. Providence Rd., Media, PA 19063 Executrix. RAYMOND J. PEPPELMAN, JR., Esquire, McNichol, Byrne & Matlawski, P.C., 1223 N. Providence Rd., Media, PA 19063, atty.

POWERS, Mark James, late of East Marlborough Township. Catherine Powers, 107 E. Doe Run Road, Kennett Square, PA 19348 Executor.

ROBERTS, Alfred D., a/k/a Fred Roberts, late of West Goshen, Chester County, PA. Susan Fiorentino, care of TRISHA W. HALL, Esquire, 1000 West St., Ste. 1400, Wilmington, DE 19801, Executrix. TRISHA W. HALL, Esquire, Connolly Gallagher, LLP, 1000 West St., Ste. 1400, Wilmington, DE 19801, atty.

NONPROFIT CORPORATION

Notice is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on September 29, 2015, for the purpose of obtaining a charter of a Nonprofit Corporation organized under the Nonprofit Corporation Law of 1988 of the Commonwealth of Pennsylvania. The name of the corporation is: **First 33 Commerce Center Owners Association**. The corporation is organized for the following purposes: to provide for the maintenance, preservation and control of the property within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

SAUL EWING, LLP, Solicitors
1200 Liberty Ridge, Ste. 200
Wayne, PA 19087-5569

NONPROFIT CORPORATION

Notice is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, for the purpose of obtaining a charter of a Nonprofit Corporation organized under the Nonprofit Corporation Law of 1988 of the Commonwealth of Pennsylvania. The name of the corporation is: **R.E.A.C.H. Community Development Corporation**. The corporation is organized and operated exclusively for charitable, educational and religious purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

TOSCANI & LINDROS, LLP, Solicitors

1205 Westlakes Dr., Ste. 195

Berwyn, PA 19312

NONPROFIT CORPORATION

NOTICE IS HEREBY GIVEN that an application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of obtaining a charter of a Nonprofit Corporation which was organized under the provisions of the Pennsylvania Nonprofit Corporation law of 1988.

The name of the corporation is **Coatesville Area Youth Athletics, Inc.**

Articles of Incorporation were filed on September 2, 2015

The purpose or purposes for which it was organized are as follows: (a) to encourage athletic endeavors and sportsmanship in Coatesville area youth ages 5-18 by organizing, promoting, developing, and governing local sports events; (b) to promote the physical, moral and mental development of Coatesville area youth by providing the means through which each individual child can receive education and instruction in sports; (c) to promote and contribute to the education of the Coatesville area youth regarding health challenges that can be addressed by, among other things, proper nutrition, diet, exercise and fitness programs; (d) contribute capital, make loans and grants, donate funds, and provide other financial assistance to entities or organizations described in either Section 170(b)(1)(A) or Section 501(c)(3) of the Code; (e) to hold meetings, seminars, participatory athletic events, and other activities for the instruction of Coatesville area youth regarding the importance of participation in the community, the proper management of childhood obesity and other societal conditions; (f) to aid, work with and participate in the activities of other organizations, individuals and public and private entities that engage in similar activities and share similar purposes; (g) to solicit, receive, and administer funds for charitable giving purposes; provided that the use, distribution or other disposition of any funds received by the Corporation for these purposes shall be restricted (in addition to any other restrictions imposed by these Articles or the Internal Revenue Code) by any conditions placed on the Corporation's receipt of such funds; (h) to solicit and receive and administer funds for charitable and educational purposes and, to that end, to take and hold by bequest, devise, gift, grant, purchase, lease or otherwise, either absolutely or jointly with another person or corporation, any property, real, personal, tangible or intangible, or any undivided interest therein, without limitation as to amount of value; to donate, sell, convey or otherwise dispose of any such property and to invest, reinvest or deal with the principal or the income thereof in such manner as, in the judgment of the Corporation's directors, will best promote the purposes of the Corporation without limitation, except such limitation, if any, as may be contained in the instrument under which such property is received, the bylaws of the Corporation, or any laws or other pertinent restrictions applicable thereto; (i) to perform all obligations and duties of the Corporation, and to exercise all rights and powers of the Corporation, in the by-laws of the Corporation, in the Act and as otherwise provided by law; and (j) to conduct such other lawful business and exercise such other rights and privileges as are incidental, necessary or expedient in connection with the fulfillment by the Corporation of such purposes, and the performance of the Corporation of its duties and obligations, as from time to time amended. In the fulfillment of the purposes of the Corporation, the Corporation shall have and may exercise any and all lawful powers, rights and privileges which a non-profit corporation may now or from time to time hereafter, have, exercise and enjoy, including, without limitation, all rights, powers and privileges enumerated in or conferred by the Act and Non-Profit Corporation Law of 1988, as amended, that are in furtherance of the Corporation's exempt purposes within the meaning of Section 501 (c)(3) of the Internal Revenue Code of 1986 or the corresponding section of any future tax codes.

**NOTICE OF ACTION IN MORTGAGE FORECLOSURE
IN THE COURT OF COMMON PLEAS
OF CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW
NO. 2014-04278**

CITIMORTGAGE, Inc., Plaintiff vs. GAIL E. SILVERSTEIN-POWELL, IN HER CAPACITY AS HEIR OF THE ESTATE OF LEWIS E. POWELL, JR., DECEASED and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER LEWIS E. POWELL, JR., DECEASED. Defendant(s)

NOTICE

TO: GAIL E. SILVERSTEIN-POWELL, IN HER CAPACITY AS HEIR OF THE ESTATE OF LEWIS E. POWELL, JR., DECEASED and UNKNOWN HEIRS, SUCCESSORS, ASSIGNS AND ALL PERSONS, FIRMS OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER LEWIS E. POWELL, JR., DECEASED, Defendant(s), whose last known address is 703 7th Avenue, Parkesburg, PA 19365.

NOTICE OF SHERIFF'S SALE OF REAL PROPERTY

TAKE NOTICE that the real estate located at 703 7th Avenue, Parkesburg, PA 19365, is scheduled to be sold at Sheriff's Sale on JANUARY 21, 2016 at 11:00 A.M., in Chester County Justice Center, 201 W. Market St., West Chester, PA 19380, to enforce the court judgment of \$57,989.79, obtained by CITI-MORTGAGE, INC., against you.

Property Description: Prop. sit in the BOROUGH OF PARKESBURG, COUNTY OF CHESTER. BEING prem.: 703 7TH AVENUE, PARKESBURG, PA 19365. Tax Parcel: #8-5-334.13. Improvements consist of residential property. Sold as the property of LEWIS E. POWELL, JR. TERMS OF SALE: The purchaser at sale must pay the full amount of his/her bid by two o'clock P.M. on the day of the sale, and if complied with, a deed will be tendered by the Sheriff at the next Court of Common Pleas for Chester County conveying to the purchaser all the right, title, interest and claim which the said defendant has in and to the said property at the time of levying the same. If the above conditions are not complied with on the part of the purchaser, the property will again be offered for sale by the Sheriff at three o'clock P.M., on the same day. The said purchaser will be held liable for the deficiencies and additional costs of said sale.

TAKE NOTICE that a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within 10 days after the filing of the schedule.

Powers, Kirn & Associates, LLC, Attys. for Plaintiff
Eight Neshaminy Interplex, Ste. 215
Treveose, PA 19053
(215) 942-2090

**NOTICE OF ACTION IN MORTGAGE FORECLOSURE
IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW**

WELLS FARGO BANK, N.A.
Plaintiff

vs.

UNKNOWN HEIRS, SUCCESSORS, ASSIGNS,
AND ALL PERSONS, FIRMS, OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER SATISH C.
GANGISETTY A/K/A G. SATISH CHANDRA, DECEASED

COURT OF COMMON PLEAS

CIVIL DIVISION

CHESTER COUNTY

Defendant

No. 15-06768

NOTICE

To UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER SATISH C. GANGISETTY A/K/A G. SATISH CHANDRA, DECEASED

You are hereby notified that on July 29, 2015, Plaintiff, WELLS FARGO BANK, N.A., filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of CHESTER County Pennsylvania, docketed to No. 15-06768. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 12 ALLSMEER DRIVE, WEST GROVE, PA 19390-8801 whereupon your property would be sold by the Sheriff of CHESTER County.

You are hereby notified to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE 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 INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service
Chester County Bar Association
15 West Gay Street.
2nd Floor
West Chester, PA 19380
Telephone (610) 429-1500

**NOTICE OF CIVIL ACTION - BREACH OF CONTRACT
IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY
CIVIL ACTION - LAW**

FEDEX TECHCONNECT, INC.

Plaintiff,

vs.

RADIATE ATHLETICS INC.

Defendant.

COURT OF COMMON PLEAS

CIVIL DIVISION

CHESTER COUNTY

No.: 2015-03937-CT

ARBITRATION MATTER ASSESSMENT OF
DAMAGES HEARING NOT REQUIRED**NOTICE**

TO: RADIATE ATHLETICS, INC.

You are hereby notified that on May 11, 2015, Plaintiff, FEDEX TECHCONNECT, INC., filed a Complaint with a Notice to Defend in the Court of Common Pleas of Chester County seeking damages in the amount of \$28,310.84, including principal, interest, and attorney's fees, for failure to make payments to Plaintiff for shipping services provided in February 2014.

You are hereby notified to plead to the above referenced Complaint within twenty (20) days from the date of this publication or a Judgment will be entered against you.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the 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 INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lawyer Referral Service
15 West Gay Street
Second Floor
West Chester, PA 19380
(610) 692-1889

NOTICE

East Fallowfield Township vs. Diana McLimans, Docket No. 12-05451, Court of Common Pleas of Chester County, PA.

Notice is given that the above was named as defendant in a civil action by plaintiff to recover 2011 trash fees for property located at 12 Abbey Road, E. Fallowfield, PA, Tax Parcel No. 47-4-.950T. A Writ of Scire Facias for \$829.44 was filed. You are notified to plead to the Writ on or before 20 days from the date of this publication or a judgment may be entered.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by Plaintiff. You may lose money, property or other rights important to you.

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

Lawyer Referral and Information Service,
Chester County Bar Association, 15 W. Gay St.,
West Chester, PA 19380, (610) 429-1500
Portnoff Law Associates, Ltd., P.O. Box 391,
Norristown, PA 19404-0391, (866) 211-9466

NOTICE

Westtown Township vs. Joseph Stephen Wolf and Sandra Wolf, Docket No. 12-11931, Court of Common Pleas of Chester County, PA.

Notice is given that the above were named as defendants in a civil action by plaintiff to recover 2008-2012 sewer and trash fees for property located at 630 Picket Way, Westtown Twp., PA, Tax Parcel No. 67-4D-22. A Writ of Scire Facias for \$5,452.75 was filed. You are notified to plead to the Writ on or before 20 days from the date of this publication or a judgment may be entered.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by Plaintiff. You may lose money, property or other rights important to you.

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

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