

Schuylkill Legal Record

(USPS 484-360)

The Official Legal Publication for Schuylkill County
The 21st Judicial District of Pennsylvania

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EDITOR: Albert J. Evans, Esq.; ASSOCIATE EDITORS: Margaret A. Ulmer, Esq.; Christopher M. Riedlinger, Esq.; Raymond W. Dorian, Esq.; Christine M. Holman, Esq.

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BAR CALENDAR

Feb 15	PRESIDENTS' DAY— Courthouse Closed
Mar 3	BOARD MEETING— Board of Directors—SCBA 8:30 A.M.—Lawyers' Room—Via Zoom
Apr 2	GOOD FRIDAY— Courthouse Closed
Apr 7	BOARD MEETING— Board of Directors—SCBA 8:30 A.M.—Lawyers' Room
Apr 22	PRESIDENT'S DINNER— Tentative

SCHUYLKILL LEGAL RECORD

ESTATE AND TRUST

NOTICES

Notice is hereby given that, in the estates of the decedents set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased settlors set forth below for whom no personal representatives have been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

FIRST PUBLICATION

ALONGE, TERESA M. a/k/a TERESA MARY ALONGE, deceased

Late of the City of Pottsville, Schuylkill County, PA

Executor: William B. Alonge, 312 Valley Street, Brockton, PA 17925

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

BROSIUS, JAMES R. a/k/a JAMES

ROBERT BROSIUS, deceased

Late of the Township of West Mahanoy, Schuylkill County, PA

Administrators: Thomas P. Brosius, 14404 Brookmere Drive, Centreville, VA 20120-4107 and Vincent Boyle, 5042 Palmer Mill Road, Clifton Heights, PA 19018

Attorneys: Keith J. Strouse, Esquire, Strouse and Strouse, 816 Center Street, Ashland, PA 17921

BROWN, SARA E., deceased

Late of the Township of Washington, Schuylkill County, PA

Co-Executors: Karen E. Thames, 856 Deturksville Road, Pine Grove, PA 17963 and Philip M. Brown, 100 Spancake Road, Pine Grove, PA 17963

Attorneys: Robin L. Harley, Esquire, Zane Rossi Conville & Harley, 38 St. John Street, P.O. Box 96, Schuylkill Haven, PA 17972

CAULFIELD, THOMAS M., SR. a/k/a THOMAS MICHAEL CAULFIELD, SR., deceased

Late of the Borough of Shenandoah, Schuylkill County, PA

Executor: Patrick M. Caulfield, 517 Stoney Run Road, Pottsville, PA 17901

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

PROCOPIO, KATHLEEN E., deceased

Late of Mahanoy City Borough, Schuylkill County, PA

Administratrix: Concetta R. Janzen, 1 Madison Ave., Elysburg, PA 17824

Attorney: Thomas K. Noonan, Esquire, 306 Mahantongo Street, Pottsville, PA 17901

RUTMAN, LENORE JEANNE, deceased

Late of Schuylkill County, PA

Executrix: Christine Wertz, 21 S. Main St., P.O. Box 504, Mary D, PA 17952

Attorneys: Martin J. Cerullo, Esquire, Cerullo, Datte & Burke,

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P.C., 450 W. Market St., Pottsville,
PA 17901

**SCHOFFSTALL, WALTER E.,
JR.**, deceased

Late of Washington Township,
Schuylkill County, PA

Executors: Michele E. Brown, 101
Natures Road, Pine Grove, PA
17963 and Michael J. Schoffstall,
555 Alison Drive, Apt. 6, Hum-
melstown, PA 17036

Attorneys: Richard J. Wiest, Es-
quire, Williamson, Friedberg &
Jones, LLC, 10 Westwood Road,
Pottsville, PA 17901

**SHLANTA, PETER M. a/k/a PE-
TER MICHAEL SHLANTA
a/k/a PETER SHLANTA**, de-
ceased

Late of the Borough of Tamaqua,
Schuylkill County, PA

Executor: Peter C. Shlanta, Sr.,
1120 Shady Lane, Tamaqua, PA
18252

Attorneys: Jeffrey P. Bowe, Es-
quire, Bowe & Odorizzi Law,
LLC, 109 West Broad Street, Ta-
maqua, PA 18252

SPITLER, RICHARD W., deceased
Late of No. 408 W. Warren Street,
Orwigsburg, Schuylkill County,
PA

Executor: Gregory T. Spitler, 208
E. Union Street, Schuylkill Haven,
PA 17972

Attorneys: Harry A. Rubright,
Esquire, Rubright, Domalakes,
Troy & McDonald, 29 E. Main
Street, P.O. Box 706, Schuylkill
Haven, PA 17972

TONKIN, JEAN K., deceased

Late of the Borough of Tamaqua,
Schuylkill County, PA

Executrix: Marilyn J. Tonkin-
Stickler, 12911 Troon Bay Drive,
Midlothian, VA 23113

Attorneys: Jeffrey P. Bowe, Es-
quire, Bowe & Odorizzi Law,
LLC, 109 West Broad Street, Ta-
maqua, PA 18252

WEIST, DENNIS LEROY, deceased
Late of Orwigsburg Borough,
Schuylkill County, PA

Administratrix: Sherry Wallace,
3573 Green Garden Road, Aliquippa,
PA 15001

Attorneys: Latisha Bernard
Schuenemann, Esquire, Leisawitz
Heller Abramowitch Phillips, P.C.,
2755 Century Boulevard, Wyo-
missing, PA 19610

WIGGINS, BARBARA A., deceased
Late of Tremont Township, Schuyl-
kill County, PA

Executrix: Lynne A. Umbenhauer,
1 Mifflin St., Pine Grove, PA
17963

Attorneys: Richard J. Wiest, Es-
quire, Williamson, Friedberg &
Jones, LLC, 10 Westwood Road,
Pottsville, PA 17901

**ZVORSKY, DORIS U. a/k/a SUE
ZVORSKY**, deceased

Late of Schuylkill Haven Borough,
Schuylkill County, PA

Executor: Douglas Cresswell, 1168
Centre Turnpike, Orwigsburg, PA
17961

Attorneys: John R. Kantner, Es-
quire, Fanelli, Evans & Patel, P.C.,
No. 1 Mahantongo Street, Potts-
ville, PA 17901

SECOND PUBLICATION

**ANKENBRANDT, GEORGE C.,
JR.**, deceased

Late of Washington Township,
Schuylkill County, PA

Executrix: Lorraine A. Anken-
brandt, P.O. Box 225, St. Leonard,
MD 20685

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Attorneys: Richard J. Wiest, Esquire, Williamson, Friedberg & Jones, LLC, 10 Westwood Road, Pottsville, PA 17901

BARLOW, GEORGE C. a/k/a GEORGE CALVIN BARLOW, deceased

Late of West Mahanoy Township, Schuylkill County, PA

Executrix: Lisa Winward, 412 East Oak Street, Frackville, PA 17931

Attorney: Leo Breznik, Esquire, Attorney-at-Law, 32 E. Centre St., P.O. Box 567, Shenandoah, PA 17976-0567

BOLTZ, EDWIN H. a/k/a EDWIN HOWARD BOLTZ, deceased

Late of the Borough of Auburn, Schuylkill County, PA

Co-Executors: Carl E. Boltz, 682 Bear Creek Street, P.O. Box 97, Auburn, PA 17922 and Donna M. Brown, P.O. Box 816, Adamstown, PA 19501

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

CLOSE, JOHN HARRY a/k/a J. HARRY CLOSE a/k/a HARRY CLOSE, deceased

Late of Branch Township, Schuylkill County, PA

Executrices: Caryn Kiraly, 33 Woodlawn Drive, Schuylkill Haven, PA 17972 and Caralyn A. Noel, 32 Vista Trail, Wayne, NJ 07470

Attorneys: Joseph G. Zerbe, Esquire, Zerbe Law Offices, 111 East Market Street, Pottsville, PA 17901

KARLAVAGE, EILEEN M., deceased

Late of the Township of Delano, Schuylkill County, PA

Executrix: Michele R. Karlavage, 16 Trenton, Mahanoy City, PA 17948

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

KENENITZ, PETER a/k/a PETER KENENITZ, SR., deceased

Late of the Borough of Ashland, Schuylkill County, PA

Administrator: Peter Kenenitz, Jr., 2115 Walnut Street, Ashland, PA 17921

Attorneys: Keith J. Strouse, Esquire, Strouse and Strouse, 816 Center Street, Ashland, PA 17921

KNORR, DEANNA L. a/k/a DEANNA LYNN KNORR, deceased

Late of the Township of Schuylkill, Schuylkill County, PA

Executor: Justin Marine, 202 Butterfield Road, San Anselmo, CA 94960

Attorneys: Jeffrey P. Bowe, Esquire, Bowe & Odorizzi Law, LLC, 109 West Broad Street, Tamaqua, PA 18252

KROPF, VIOLET C. a/k/a VIOLET CLARA KROPF, deceased

Late of West Penn Township, Schuylkill County, PA

Executor: Shonn Thomas c/o Joseph J. Velitsky, Esquire, 49 East Ludlow Street, Summit Hill, PA 18250

Attorney: Joseph J. Velitsky, Esquire, 49 East Ludlow Street, Summit Hill, PA 18250

MAJIKAS, JOHN A., deceased

Late of the Borough of Girardville, Schuylkill County, PA

Executor: Anthony A. Majikas, 1238 Pottsville Street, Pottsville, PA 17901

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Attorney: Paul Domalakes, Esquire, 14 West Frack Street, P.O. Box 9, Frackville, PA 17931

MITROS, JOHN V. a/k/a JOHN

MITROS, deceased

Late of the Borough of Schuylkill Haven, Schuylkill County, PA

Executrix: Trish Schimpf, 509 West Columbia Street, Schuylkill Haven, PA 17972

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

SCHAPPELL, KENNETH S., deceased

Late of No. 85 Front Street, Borough of Cressona, Schuylkill County, PA

Executrix: Denise L. Gilbert, 201 McKinley Street, Schuylkill Haven, PA 17972

Attorneys: Harry A. Rubright, Esquire, Rubright, Domalakes, Troy & McDonald, 29 E. Main Street, P.O. Box 706, Schuylkill Haven, PA 17972

SEDOR, MARGARET A. a/k/a MARGARET SEDOR, deceased

Late of Mahanoy Plane, Schuylkill County, PA

Executor: Gregory Sedor, 2614 Main Street, Mahanoy Plane, PA 17949

Attorney: Christine A. Holman, Esquire, 204 East Broad Street, Tamaqua, PA 18252

SEKELICK, VERONICA, deceased

Late of Cass Township, Schuylkill County, PA

Executrix: Irene Gombola, 43458 Mountcastle Drive, Chantilly, VA 20152

Attorneys: Joseph G. Zerbe, Esquire, Zerbe Law Offices, 111 East Market Street, Pottsville, PA 17901

SHEELER, JANET J., deceased

Late of Mahanoy City Borough, Schuylkill County, PA

Executrix: Jayne Ann Kovich, 1956 Elk Avenue, Pottsville, PA 17901

Attorney: Thomas K. Noonan, Esquire, 306 Mahantongo Street, Pottsville, PA 17901

SIVULICH, NICHOLAS, deceased

Late of Shenandoah, Schuylkill County, PA

Administrator: Brian D. Brooks c/o Nancy Mayer Hughes, Esquire, Barley Snyder, 126 East King Street, Lancaster, PA 17602

Attorneys: Nancy Mayer Hughes, Esquire, Barley Snyder, 126 East King Street, Lancaster, PA 17602

SPANGLER, HARRY R. a/k/a HARRY RANDOLPH SPANGLER, deceased

Late of the Township of Branch, Schuylkill County, PA

Executrix: Linda M. Kimmel, 66 New Mines Street, Branchdale, PA 17923

Attorneys: Ashley M. Securda, Esquire, Williamson, Friedberg & Jones, LLC, 10 Westwood Road, Pottsville, PA 17901

STEFANSKI, ANNE MARILYN, deceased

Late of the City of Pottsville, Schuylkill County, PA

Executor: David A. Pedron, 11 Coal Street, Llewellyn Road, Pottsville, PA 17901

Attorneys: John B. Lieberman, III, Esquire, Lieberman, Tamulonis & Hobbs, 111 East Market Street,

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P.O. Box 238, Pottsville, PA
17901-0238

STERNER, TODD M., deceased

Late of the Borough of Cressona,
Schuylkill County, PA
Administrator: Richard P. Sterner,
521 Holiday Drive, Schuylkill
Haven, PA 17972

Attorneys: Robin L. Harley, Es-
quire, Zane Rossi Conville &
Harley, 38 St. John Street, P.O.
Box 96, Schuylkill Haven, PA
17972

THIRD PUBLICATION

**ARTZ, MARK L. a/k/a MARK
LINDBERGH ARTZ,** deceased

Late of the Township of Hegins,
Schuylkill County, PA
Executors: Debra L. Barry, 225
East Main Street, Hegins, PA
17938 and Mark Steven Artz, 403
East Springwood Place, Port Matil-
da, PA 16870

Attorneys: James C. Bohorad,
Esquire, Marshall, Bohorad,
Thornburg, Price & Campion,
P.C., 1940 West Norwegian Street,
P.O. Box 1280, Pottsville, PA
17901

BALTHASER, RONALD E., de-
ceased

Late of West Mahanoy Township,
Schuylkill County, PA
Administrator: Good News Con-
sulting, Inc. c/o Amanda Snoke
Dubbs, Esq., 294 Dew Drop Road,
York, PA 17402

Attorney: Amanda Snoke Dubbs,
Esq., 294 Dew Drop Road, York,
PA 17402

**BOUND, FLORENCE A. a/k/a
FLORENCE ANN BOUND,**
deceased

Late of the Township of Blythe,
Schuylkill County, PA

Executor: John P. Franko, 408
Valley Street, Port Carbon, PA
17965

Attorneys: Thomas J. Campion, Jr.,
Esquire, Marshall, Bohorad,
Thornburg, Price & Campion,
P.C., 1940 West Norwegian Street,
P.O. Box 1280, Pottsville, PA
17901

**DAVALOS, VINCENT ALEXAN-
DER,** deceased

Late of Schuylkill County, PA
Administratrix: Catherine Ann Cyr
c/o Barry H. Dyller, Esq., Gettys-
burg House, 88 North Franklin
Street, Wilkes-Barre, PA 18701

Attorney: Barry H. Dyller, Esq.,
Gettysburg House, 88 North Frank-
lin Street, Wilkes-Barre, PA 18701

EMERICH, FRANCES M., de-
ceased

Late of Lake Front Drive, Deer
Lake Borough, Schuylkill County,
PA

Co-Executors: Stacey B. Welker
and Melissa D. Miranda c/o Rus-
sell E. Farbiarz, Esquire, Antanav-
age Farbiarz, PLLC, 64 North
Fourth Street, Hamburg, PA 19526
Attorneys: Russell E. Farbiarz,
Esquire, Antanavage Farbiarz,
PLLC, 64 North Fourth Street,
Hamburg, PA 19526

**GINDA, IRMA a/k/a IRMA C.
GINDA,** deceased

Late of the Borough of Tamaqua,
Schuylkill County, PA

Executrix: Maureen Ginda, 743
Hill Road, Philadelphia, PA 19128
Attorneys: Jeffrey P. Bowe, Es-
quire, Bowe & Odorizzi Law,
LLC, 109 West Broad Street, Ta-
maqua, PA 18252

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GRIFFITHS, LOIS M. a/k/a LOIS

GRIFFITHS, deceased

Late of the Borough of Mahanoy City, Schuylkill County, PA

Executrix: Judith Brayford, 9 Hill-top Road, Barnesville, PA 18214

Attorneys: James C. Bohorad, Esquire, Marshall, Bohorad, Thornburg, Price & Campion, P.C., 1940 West Norwegian Street, P.O. Box 1280, Pottsville, PA 17901

HAHN, JAMES F. a/k/a JAMES FREDERICK HAHN, deceased

Late of Orwigsburg Borough, Schuylkill County, PA

Administrator: Good News Consulting, Inc. c/o Amanda Snoke Dubbs, Esq., 294 Dew Drop Road, York, PA 17402

Attorney: Amanda Snoke Dubbs, Esq., 294 Dew Drop Road, York, PA 17402

HAVERTY, ELIZABETH L. a/k/a ELIZABETH LOUISE HAVER-
TY, deceased

Late of the Borough of Schuylkill Haven, Schuylkill County, PA

Executrix: Susan Stratton, 21 Los Angeles Street, South Hadley, MA 01075

Attorneys: James C. Bohorad, Esquire, Marshall, Bohorad, Thornburg, Price & Campion, P.C., 1940 West Norwegian Street, P.O. Box 1280, Pottsville, PA 17901

KUFROVICH, JOSEPH R., deceased

Late of the Township of Ryan, Schuylkill County, PA

Administratrix: Bernadette M. Meck, 314 Deer Trail Drive, Schuylkill Haven, PA 17972

Attorneys: James C. Bohorad, Esquire, Marshall, Bohorad, Thornburg, Price & Campion,

P.C., 1940 West Norwegian Street, P.O. Box 1280, Pottsville, PA 17901

OBRZUT, HELEN J., deceased

Late of the Township of East Union, Schuylkill County, PA

Executrix: Deborah Sosna, 45 Main Boulevard, Ringtown, PA 17967

Attorneys: Eric M. Mika, Esquire, Certified Elder Law Attorney, Toole, Mika & Jones, LLC, 26 East Centre Street, Shenandoah, PA 17976

SCHEIPE, LINDA ANN a/k/a LINDA A. SCHEIPE a/k/a LINDA REINMILLER, deceased

Late of the Borough of Schuylkill Haven, Schuylkill County, PA

Executrix: Lynnette A. Clinton, 180 Haven Beach Drive South, Indian Rocks Beach, FL 33785

Attorneys: James C. Bohorad, Esquire, Marshall, Bohorad, Thornburg, Price & Campion, P.C., 1940 West Norwegian Street, P.O. Box 1280, Pottsville, PA 17901

SLIMMER, SAMUEL C., JR. a/k/a SAMUEL CHARLES SLIM-
MER, deceased

Late of the Borough of Gordon, Schuylkill County, PA

Executor: Samuel John Slimmer, 109 Country Club Road, Ashland, PA 17921

Attorney: Nicholas A. Quinn, Esquire, 601 W. Market Street, Pottsville, PA 17901

SMINK, LARONA A., deceased

Late of the Township of Eldred, Schuylkill County, PA

Executrix: Charlene K. Woodring, 434 Ridge Road, Catawissa, PA 17820

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Attorneys: Joseph C. Michetti, Jr.,
Esquire, Diehl, Dlugé, Michetti &
Michetti, 1070 Market Street,
Sunbury, PA 17801

STONE, EMMELINE C., deceased
Late of the City of Pottsville,
Schuylkill County, PA

Administrator: George C. Stone,
508 Wellshire Place, Chester, VA
23836

Attorney: Kent D. Watkins, 101
South Second Street, Saint Clair,
PA 17970-0065

NOTICE

NOTICE IS HEREBY GIVEN that
a Petition has been filed in the Court
of Common Pleas of Schuylkill County,
Pennsylvania, seeking to change
the name of Jordan Kenneth William
Moyer to Jordan Kenneth William
Wychulis. A hearing on the Petition
will be held on Wednesday, February
17, 2021 at 2:00 p.m. in Courtroom
Number 5 at the Schuylkill County
Courthouse, 401 North Second Street,
Pottsville, Pennsylvania, at which
time any persons interested may attend
and show cause, if any, why the Petition
should not be granted.

ROBERT S. FRYCKLUND,
ESQUIRE

49 East Ludlow Street
P.O. Box 190
Summit Hill, PA 18250
(570) 645-3100

Feb. 4

IN THE COURT OF COMMON
PLEAS OF SCHUYLKILL
COUNTY, PENNSYLVANIA
CIVIL DIVISION
U.S. BANK TRUST NATIONAL
ASSOCIATION, AS TRUSTEE
FOR TOWD POINT MASTER
FUNDING TRUST 2017-PM13 HC
vs.

JO OLEWILER, AS
SURVIVING HEIR OF
KATHLEEN SCHREFFLER,
DECEASED, EDWIN ROBEY, AS
SURVIVING HEIR OF
KATHLEEN SCHREFFLER,
DECEASED, DAVID ROBEY, AS
SURVIVING HEIR OF
KATHLEEN SCHREFFLER,
DECEASED, SANDRA STALLER,
AS SURVIVING HEIR OF
KATHLEEN SCHREFFLER,
DECEASED, JOSEPH
SCHREFFLER, AS SURVIVING
HEIR OF KATHLEEN
SCHREFFLER, DECEASED,
UNKNOWN SURVIVING HEIRS
OF KATHLEEN SCHREFFLER,
DECEASED
NO.: S-1168-2020

NOTICE

TO: THE DEFENDANTS

You are hereby notified U.S. Bank
Trust National Association, As Trustee
for TOWD Point Master Funding
Trust 2017-PM13 HC, has filed a
Complaint in Mortgage Foreclosure
with regard to 809 North 16th Street,
Pottsville, PA 17901, endorsed with a
Notice to Defend, against you at No.
S-1168-2020 in the Civil Division of
the Court of Common Pleas of Schuylkill
County, Pennsylvania, wherein
plaintiff seeks to foreclose on the
mortgage encumbering said property,
which foreclosure would lead to a
public sale by the Schuylkill County
Sheriff.

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

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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.

Schuykill County
Notice to Defend
Pennsylvania Lawyer
Referral Service
Pennsylvania Bar Association
P.O. Box 186
Harrisburg, PA 17108
(800) 692-7375

STEPHEN M. HLADIK, ESQUIRE
HLADIK, ONORATO &
FEDERMAN, LLP
Plaintiff's Attorneys

298 Wissahickon Avenue
North Wales, PA 19454
(215) 855-9521

Feb. 4

SUITS

All suits filed in the Prothonotary's Office are not required by law to be marked Assumpsit or Trespass, they are filed as Complaints.

GETZ, GIRARD, GETZ, MELISSA,
MULLEN, KYLEE R vs. CALO
OROZCO ROA, DENISE, KABANA,
ZACHARY, VALENTINE, CHARLES
CITIBANK NA vs. DUBIANSKY,
WILBUR

MERWINE, HELENE vs. PEKERA,
JOHN PAUL

CBC SETTLEMENT FUNDING
LLC vs. JAMESTOWN LIFE
INSURANCE COMPA

DISCOVER BANK vs. ROMANKO,
CHRISTINE M

DISCOVER BANK vs. SOIKA,
JANEL K

DISCOVER BANK vs. STROUSE,
KEITH

DISCOVER BANK vs. NEIFERT,
BRYAN L

DISCOVER BANK vs. ADAMS,
JAMES C

DISCOVER BANK vs. DAVIS,
CYNTHIA A

DISCOVER BANK vs. KUNKEL,
SUSAN A

DISCOVER BANK vs. TROTTER,
LUCERO

DISCOVER BANK vs. SLOVICK,
BRENDA M

DISCOVER BANK vs. MEYER,
DARRIN W

THOMPSON, LAUREN ASHLEY
vs. HILL, DOMOREE RAYMOND

CITIBANK NA, RAS LAVRAR LLC
vs. BATTAGLIA, DIANE

CITIBANK NA vs. RAMIREZ, PENNY L

STROCK, RICHARD L vs. RYAN,
ERIN M

BOWMAN, SADIE vs. RUBRIGHT
III, CHARLES R

KEEFER, KYLA N vs. MORGAN,
KOTY A

PENNSYLVANIA COMMON-
WEALTH OF D vs. RUMBERGER,
JOSEPH EDWARD

US BANK NATIONAL ASSOCIATION,
WACHOVIA BANK NATIONAL ASSOCIATION,
GSMPS MORTGAGE LOAN TRUST 2004
vs. McGOVERN, STACEY L

ERICA FELIX, Plaintiff**vs.****GINA PROVISIERO, LSW et al., Defendants****Preliminary Objections—Corporate Negligence—Behavioral Health Services—Gross Negligence**

1. Preliminary objections which seek the dismissal of a cause of action should be sustained only in cases that are free from doubt where the pleader will be unable to prove facts legally sufficient to establish the right to relief.

2. Corporate negligence is a doctrine under which “a corporation can be directly liable” based upon a duty of care it owes directly to the plaintiff.

3. A facility that provides services for a limited purpose, *i.e.*, psychotherapy, not overall care, does not owe a duty of care directly to a patient under the doctrine of corporate negligence.

4. A preliminary objection seeking to strike allegations of gross negligence is premature and should only be dismissed after further development.

Court of Common Pleas of
Schuylkill County
Civil Division

NO. S-1189-2020

DOMINIC C. GUERRINI, Esq. — for Plaintiff

MATTHEW SHINDELL, Esq. — for Defendants

OPINION OF COURT

MILLER, J., November 2, 2020

Before this Court are the Preliminary Objections of Defendants, Gina Provisiero, LSW, James Donegan, M.S. and the ReDCo Group to the Complaint filed by Plaintiff, Erica Felix, alleging corporate negligence and gross negligence regarding Ms. Felix’s psychiatric care.

Plaintiff presented for treatment at the ReDCo Group nineteen (19) days after being hospitalized for suicidal ideations. Ms. Felix reportedly informed the staff at the ReDCo Group that she presently had severe depression and frequent thoughts of death. Plaintiff alleges Defendants failed to recognize that she posed a serious, substantial and immediate risk of suicide during a psychotherapy session at the ReDCo Group, and the day after her visit, doused herself with gasoline and lit herself on fire, causing severe burns and permanent injury.

The test on Preliminary Objections is whether it is clear and free from doubt from all the facts pleaded and that the pleader will be unable to prove facts legally sufficient to establish his right to relief. **Bower v. Bower**, 531 Pa. 54, 611 A.2d 181 (1992). Preliminary objections which would result in the dismissal of an action should be sustained only in cases which are clear and free from doubt. **Ambrose**

v. Cross Creek Condominiums, 412 Pa. Super. 1, 602 A.2d 864 (1992). All facts that are well pleaded and material and relevant will be considered as true in review of preliminary objections, together with such reasonable inferences as may be drawn from such facts. **Mellon Bank, N.A. v. Fabinyi**, 437 Pa. Super. 559, 650 A.2d 895 (1994).

Defendants' first Preliminary Objection seeks dismissal of Ms. Felix's Corporate Negligence claim against ReDCo. Plaintiff argues binding precedent makes it clear that corporate negligence claims may proceed against more than hospitals, HMOs and nursing homes.

Corporate negligence is a doctrine under which "a corporation can be directly liable based upon a duty of care it owes directly to the plaintiff, such as 'duties to maintain safe facilities, and to hire and oversee competent staff.'" **Scampone v. Grane Healthcare Company**, 169 A.3d 600, 608 (Pa. Super. 2017) (citing **Scampone v. Highland Park Care Ctr.**, 618 Pa. 363, 557 A.3d 582, 598 (2012)). This theory of liability creates a non-delegable duty which the entity owes direct to a patient. **Thompson v. Nason Hospital**, 527 Pa. 330, 591 A.2d 703 (1991). In **Thompson**, the Pennsylvania Supreme Court classified the scope of the duties owed to the patient into four general areas: (1) a duty to use reasonable care in the maintenance of safe and adequate facilities and equipment; (2) a duty to select and retain only competent physicians; (3) a duty to oversee all persons who practice medicine within its walls as to patient care; and (4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for the patients.

Plaintiff contends that Pennsylvania courts have allowed corporate negligence claims to proceed against numerous non-hospital entities providing the requisite elements of the cause of action are established by the evidence.

Plaintiff maintains that the Pennsylvania Supreme Court disavowed an analysis that compares a particular entity to the functions of a hospital, and noted the following:

The critical difficulty has been in employing an analysis focused primarily, and occasionally exclusively, on the question of whether the entity providing medical care had assumed the role of a comprehensive health center responsible for arranging and coordinating the total healthcare of its patients. The proper

inquiry is instead broader, under Thompson and general, settled principles governing the legal recognition of a duty of care.

In fashioning a more generally-applicable test, the court instructed that lower courts undertake an analysis under the five-factor test of **Althaus v. Cohen**, 562 Pa. 547, 756 A.2d 1166 (2000): (1) the relationship between the parties; (2) the social utility of the actor's conduct; (3) the nature of the risk imposed and foreseeability of the harm incurred; (4) the consequences of imposing a duty upon the actor; and (5) the overall public interest in the proposed solution.

Alternatively, the **Scampone** court suggested that an analysis of Section 323 of the Restatement (Second) of Torts was also appropriate and offered the functional equivalent of an **Althaus** factor analysis. **Scampone, supra** at 617-19. That section provides, in pertinent part, that one who "render[s] services to another which he should recognize as necessary for the protection of the other's person ... is subject to liability ... for physical harm resulting from his failure to exercise reasonable care to perform his undertaking, if ... his failure to exercise such care increases the risk of such harm" Restatement (Second) of Torts §323(a).

Plaintiff then sets forth that a proper analysis of the five factors of **Althaus** shows why a corporate negligence claim is proper here against the ReDCo Group.

Plaintiff argues Ms. Felix was owed a duty of care because she was placed entirely under the care of ReDCo Group which undertakes crucial duties related to its patients' mental and physical well-being. We disagree. Clearly, this falls short when imposing liability for corporate negligence under **Althaus**.

We find the allegations do not establish a relationship between the two parties to mandate imposition of a duty of care in the realm of corporate negligence. Ms. Felix was placed under the care of the ReDCo Group for a limited purpose, *i.e.*, psychotherapy, with respect to her psychiatric care, not all care.

Plaintiff contends the social utility of the ReDCo Group's business involves protecting some of society's most vulnerable citizens: those with (often severe) mental illness and the nature of the risk imposed is very high risk and Plaintiff believes imposing a duty on the ReDCo Group would benefit society because psychiatric facilities that provide psychotherapy to patients would be subject to corporate liability for having unsafe or inadequate facilities, hiring

incompetent psychiatrists, improperly overseeing those practicing psychiatry and/or psychotherapy within its walls, and promulgating inadequate rules and policies similar to medical facilities that have various care units, staff, rules and policies. We find such an application of **Althaus** overly broad.

We note that Defendants' Preliminary Objections do not address **Scampone**'s expansion of **Thompson** liability, nor do they address the **Althaus** factors at all. However, we find Plaintiff's analysis of the five factors of **Althaus** improper and misplaced. Plaintiff's argument that the ReDCo Group is a psychiatric care facility that provides unlimited services to its clients, such that the patients entrust their complete physical and mental health and well-being to this entity is not compelling. Treatment facilities that offer a specific service, not overall care, for a limited engagement, should not be directly liable to a claimant under the theory of corporate liability. Therefore we find that Defendants' first Preliminary Objection must be sustained and Count V of the Complaint dismissed with prejudice.

Defendants' second Preliminary Objection is in the form of a Motion to Strike allegations of gross negligence. Defendants assert that Ms. Felix's Complaint "fails to plead facts that establish ReDCo or its agents committed anything more than ordinary negligence."

The Complaint alleges that Defendants grossly failed in their psychiatric treatment of Ms. Felix by allowing her to leave her April 2, 2019 appointment without immediate intervention. Allegedly, Plaintiff presented with several hallmark signs of imminent suicide risk, "severe depression and recurrent thoughts of death." Plaintiff contends with this presentation, Defendants should have taken immediate action under the **Mental Health Procedures Act** under **§301 and §302** to protect Ms. Felix. Plaintiff asserts that these allegations support a claim of gross negligence.

It is further alleged that Defendants failed to obtain other urgent care and treatment and failed to properly assess Plaintiff's high risk of depression and suicide. On these facts Defendants suggest that the treating therapist at ReDCo may have exercised poor judgment in treating Plaintiff and failed to take measures to stop Ms. Felix from harming herself, however, the allegations do not rise to the level needed to support a claim for gross negligence.

First, Plaintiff argues that Defendants' Motion to Strike allegations of gross negligence is premature. Plaintiff contends that

whether the conduct alleged rises to the level of gross negligence is a factual determination that should not be resolved at this early stage. We agree. The facts in this case could, upon further development, be considered gross negligence. Therefore, the case is not entirely free from doubt in order to find, as a matter of law, that the allegations of gross negligence be stricken. **See Bloom v. Dubois Regional Medical Center**, 409 Pa. Super. 83, 597 A.2d 671 (1991). As such, Defendants' second Preliminary Objection must be overruled.

ORDER OF COURT

AND NOW, this 2nd day of November, 2020, it is hereby ORDERED and DECREED that Defendants Gina Provisiero, LSW, James Donegan, M.S., and the ReDCo Group's Preliminary Objections to Plaintiff's Complaint are SUSTAINED in part and OVERRULED in part as follows:

1. Defendants' first Preliminary Objection regarding Corporate Negligence is sustained and Count V of the Complaint is stricken with prejudice; and
2. Defendants' second Preliminary Objection regarding allegations of "gross negligence" against said Defendants is OVERRULED.

It is further ORDERED that Plaintiff shall file an Amended Complaint within twenty (20) days of the date of this Order.



PERIODICAL PUBLICATION

*** Dated Material. Do Not Delay. Please Deliver Before Monday, February 8, 2021**