

LACKAWANNA JURIST

JUDICIAL OPINION

CASE NAME AND NUMBER: Garvey v. Adamo, 2020 WL 3566240 (Lacka. Co. 2020)
DATE OF DECISION: June 10, 2020
JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Jeremy R. Weinstock, Esquire, Rachael Litchman, Esquire, Counsel for Plaintiff
Mark T. Perry, Esquire, Dominick J. Georgetti, Esquire, Christian J. Owens, Esquire, Counsel for Defendant, Louis C. Adamo, M.D., Patrick C. Carey, Esquire, Jamie L. Davis, Esquire, Counsel for Defendants, Michael Gilhooly, M.D., Daniel Kazmierski, M.D., and Tracey Boros Galardi, M.D., James A. Doherty, Jr., Esquire, Grace D. Hillebrand, Esquire, Counsel for Co-Defendant, Medical Associates of Northeastern PA, P.C.

SUMMARY OF OPINION:

In this medical malpractice action involving allegations of overprescription of opioids by a physician, who was later charged by the Attorney General and pled guilty to delivery by a practitioner under 35 P.S. § 780-113(a)(14), the plaintiff sought to serve a subpoena upon the Attorney General to produce "any and all documents associated with" that physician. Defendant objected to the proposed subpoena on the grounds that it was overly broad, unduly burdensome, and sought irrelevant and privileged information. Although discovery is liberally allowed, discovery requests must be reasonable in scope and temporal limitation, and the materials being sought must be described with reasonable particularity. The subpoena at issue did not identify the type of records being sought with reasonable particularity, and instead demanded the production of "any and all documents associated with" the physician. The language of the subpoena did not confine its scope to records relating to the physician's prescription of opioids for his patients, nor did it contain a time limitation that was relevant to the treatment period at issue in the case. Consequently, the plaintiff's motion seeking to strike defendant's objections under Pa.R.C.P. 4009.21(d)(1) was denied.

JUDICIAL OPINION

CASE NAME AND NUMBER: Farber v. Erie Insurance Exchange, 2020 WL 3886320 (Lacka. Co. 2020)
DATE OF DECISION: July 8, 2020
JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Harry T. Coleman, Esquire, Counsel for Plaintiff
Allan C. Molotsky, Esquire, Dennis Chow, Esquire, Counsel for Defendant, Erie Insurance Exchange
Marion Munley, Esquire, Ciara DeNaples, Esquire, Counsel for Defendants, Joseph Loomis and Janan Loomis, Individually and as Administrators of the Estate of Leah Loomis, Deceased

SUMMARY OF OPINION:

A boat owner, who was sued in a wrongful death lawsuit involving the use of his motorboat, instituted this action against his excess insurer, and asserted claims for breach of contract and declaratory judgment with respect to the insurer's duties to defend and indemnify him in the death litigation, and also asserted bad faith liability under 42 Pa.C.S. § 8371 and violations of the Unfair Trade Practices and Consumer Protection Law (UTPCPL). The policy contained a watercraft exclusion that provided temporary insurance coverage for watercraft "acquired during the policy period," but further stated that liability coverage "ceases" to exist "if notice is not given [by the insured] within 30 days" of "the date of acquisition" of the watercraft. During the policy period, the insured gained possession of the subject motorboat on August 5, 2017, and paid the seller for its purchase on August 18, 2017, the Commonwealth issued title to the boat in the insured's name on September 6, 2017, and the motorboat fatality occurred on September 26, 2017. Arguing that the insured "acquired" the motorboat when he took custody of it on August 5, 2017, the insurer filed a motion for summary judgment regarding the duties to defend and indemnify and the insured's bad faith and UTPCPL claims on the ground that the excess coverage for the wrongful death action was clearly precluded by the watercraft exclusion since the 30 day temporary coverage purportedly lapsed on September 4, 2017. In the alternative, the insurer sought summary judgment on the basis that the duties to defend and indemnify were not ripe for resolution.

The policy drafted by the insurer used the words "acquired" and "acquisition," rather than "possessed" or "purchased," in establishing dates for the commencement and cessation of temporary liability coverage for watercraft, and did not define either of those terms in the policy. Dictionary definitions of those undefined words support the conclusion that they mean gaining "ownership" or the "power of disposal" of watercraft, and state regulations indicate that a boat purchaser becomes its lawful owner upon obtaining title to it. Since one reasonable interpretation of "acquired" or "acquisition," when applied to the facts of this case, referenced the date that title to the motorboat was issued, the resultant ambiguity must be construed in favor of the insured and extrinsic evidence may be considered by the fact-finder in resolving that ambiguity. Therefore, the insurer did not establish that it was clear and free from doubt that excess coverage was precluded by the watercraft exclusion, and its motion for summary judgment on that basis was denied.

The clear language of the policy imposed a duty to defend the insured once the underlying limits of the primary insurance coverage were exhausted, and the record was devoid of any suggestion that the insured's boating liability insurer had tendered its policy limits or terminated its ongoing defense of the insured in the wrongful death action. Moreover, the duty to indemnify arises only after it has been determined that the insured is liable for payment of a third-party claim, and any adjudication regarding an insurer's indemnification duty is premature prior to the conclusion of the underlying action. Thus, the insurer's motion for summary judgment concerning its duties to defend and indemnify were granted based upon the ripeness doctrine, without prejudice to the insured's right to seek a judicial determination regarding those duties once they become justiciable.

ESTATES

First Notice

ESTATE OF JAMES R. BRENZEL, late of Jessup, Lackawanna County, PA, (died May 26, 2020). Letters Testamentary were granted to Robert James Brenzel. Creditors present claims and debtors make payment to the Executor, or to Kim A. Giombetti, Esq., The Ritz Building, 222 Wyoming Avenue, Scranton, PA 18503, Attorney for the Estate.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted in the **ESTATE OF REGINA CALLIS**, late of Old Forge, Lackawanna County, Pennsylvania, who died on May 25, 2020. All persons indebted to said Estate are required to make payment without delay, and those having claims or demands to present the same without delay to the Executrix, Carol Ann Callis, in care of her attorney: MICHAEL J. BENDICK, ESQUIRE, P.O. Box 1733, Shavertown, PA 18708.

ESTATE OF JOSEPH DRUMSTA, SR., late of Scranton, Lackawanna County, Pennsylvania (died June 16, 2020). Letters Testamentary having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Joseph Drumsta, Jr., Executor, 502 Dexter Avenue, Scranton, Pennsylvania 18504 or to Jenna Kracyer Tuzze, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF JORDAN R. FERRI, A/K/A JORDAN FERRI, late of Covington Township, Lackawanna County, PA (May 9, 2020). Notice is hereby given that Letters Testamentary on the above Estate have been granted to Robert C. Feri. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Executor named above or to Timothy B. Fisher II, Esquire, Fisher & Fisher Law Offices LLC, Attorneys for the Estate, 525 Main Street, PO Box 396, Gouldsboro, PA 18424.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted in the **ESTATE OF LOUISE MARY FINETTI A/K/A LOUISE FINETTI**, Deceased, late of 1327 Pine Street, Scranton, Lackawanna County, Pennsylvania 18510, who died on April 10, 2020. All persons indebted to the Estate are requested to make payment and those having claims or demands are to present same, without delay, to the Executor, Joseph c. Finetti, or Michael N. Krisa, Attorney for the Estate, 3397 Scranton/Carbondale Highway, Suite 4, Blakely, Pennsylvania 18447.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted to Kenneth Srebro in the **ESTATE OF LEONARD S. JANUS**, late of Scott Township, Pennsylvania (died 06/01/2020). All persons indebted to said estate are requested to make payment, and creditors to present their claims without delay to the Executor c/o Ernest A. Sposto Jr., Esq., 108 North Washington Avenue, Suite 401, Scranton, PA 18503, Attorney for the Estate.

Notice is hereby given that Testamentary Letters have been granted to Charlotte DeStefano of 1400 Fellows St., Scranton, PA 18504 in the **ESTATE OF JOAN KELLY A/K/A JOAN NEGVESKY KELLY**, late of Peckville, Lackawanna County, PA, who passed away December 15, 2019. All

persons indebted to said Estate are requested to make payment and those having claims or demands to present the same without delay to the Executrix named or to the attorney for said Estate: Patrick A. Kane, 960 Scranton/Carbondale Hwy., Archbald, PA 18403.

ESTATE OF CHARLES O. LEEK, late of Moosic, Lackawanna County, Pennsylvania, died on April 20, 2020. His Personal Representative is Jonathon Charles Leek. All persons indebted to the said Estate are requested to make payment, and those having claims to present without delay to his attorney Donna M. DeVita, Esq., 1209 Marion Street, Dunmore, PA 18509.

ESTATE OF MARY LOSCOMBE, late of the City of Scranton, PA died May 18, 2020, Administrator John D. Loscombe, Terrence V. Gallagher Attorney for the Estate, 416 Jefferson Avenue, Scranton, PA 18510. Notice is hereby given that Letters Administration have been granted. All persons indebted to the said estate are required to make payment, and those having claims or demands are to present the same without delay to the Administrator's name.

RE: **ESTATE OF TERESA R. MACDONALD**, late of Scranton, Lackawanna County, PA (died June 12, 2017), Letters of Administration have been granted to the undersigned, who requests all persons having claims or demands against the Estate of the Decedent to make known the same, and all persons indebted to the Decedent to make payment without delay to: Catherine MacDonald Tremko, Executrix of the Estate, or to her attorney: Thomas J. Jones, Jr., Esquire, 410 Spruce Street, Suite 301, Scranton, Pennsylvania 18503.

ESTATE OF MARY E. MECCA, late of Scranton, PA (died January 28, 2020). Notice is hereby given that Letters Testamentary for the Estate of Mary E. Mecca have been issued to Mary Beth Mecca, Executrix of the Estate. All those having claims or demands against the Estate shall present claims or remit payment without delay to Mark J. Conway, Attorney for the Estate, 502 South Blakely Street, Dunmore, Pennsylvania 18512.

Notice is hereby given that Letters of Administration have been granted to Timothy W. Art of 219 East Elm St., Dunmore, PA 18512, in the **ESTATE OF BARBARA A. NAUMANN**, late of Clarks Summit, Lackawanna County, PA, who passed away November 7, 2019. All persons indebted to said Estate are requested to make payment and those having claims or demands to present the same without delay to the Administrator named or to the attorney for said estate: Patrick A. Kane, Esq., 960 Scranton-Carbondale Hwy., Archbald, PA 18403.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted to Gary S. Olexovitch and Marie Parker, Co-Executors of the **ESTATE OF STEPHEN M. OLEXOVITCH**, late of Taylor, Lackawanna County, Pennsylvania who died on June 19, 2019. All persons indebted to said Estate are required to make payment and those having claims or demands to present the same without delay to the Co-Executors in c/o Gregory S. Skibitsky, Jr., Esquire, Skibitsky & Molino, 457 North Main Street, Suite 101, Pittston, PA 18640.

ESTATE OF EUGENE REPCHAK, late of Borough of Dunmore, Pennsylvania, (died June 1, 2020). Notice is hereby given that Letters Testamentary on the above Estate have been granted to Lisa M. Doolittle, of Montrose, PA and Jennifer Popis, of Scranton, PA. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Personal

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Representatives named herein, or to Nicholas D. Tellie, Esquire, Tellie & Coleman, P.C., 310 East Drinker Street, Dunmore, PA 18512.

ESTATE OF RITA M. SALERNO, late of Old Forge, Lackawanna County, Pennsylvania (died April 18, 2020). Ann F. Salerno, Executrix; Doreen M. Graziano, Esquire, Graziano Law Offices, R. 120 Corcoran Street, Old Forge, PA 18518.

ESTATE OF JAMES P. SCHIRRA, late of Scranton, Pennsylvania (died May 21, 2020). Notice is hereby given that Letters of Administration have hereby granted to Jamie Schirra, Administratrix. All persons indebted to the Estate are required to make payment, and those having claims or demand to present same without delay to the Administratrix, or to Edward A. Monsky, Esquire, The Belt Law Firm, PC 100 West Union Street, Kingston, PA 18704, attorney for Estate.

NOTICE IS HEREBY GIVEN that Letters Testamentary were granted to Patrick A. Tomeo, Jr., in the **ESTATE OF PATRICK TOMEO** late of Taylor, Lackawanna County, Pennsylvania, who died on March 14, 2020. All persons indebted to the said Estate are required to make payment, and those having claims or demands to present the same without delay to the estate's counsel named below: Kevin M. Conaboy, Esquire, Abrahamsen, Conaboy & Abrahamsen, P.C., 1006 Pittston Avenue, Scranton, PA 18503.

NOTICE IS HEREBY GIVEN that Letters of Administration have been issued to David Z. Lantz, Administrator of the **ESTATE OF GERTRUDE A. WERNER**, Deceased, who died on December 29, 2019, late of Peckville, Pennsylvania. All persons indebted to the Estate are required to make payment and those having any claims or demands are to present the same without delay to the Administrator in care of the undersigned. Bregman & Lantz, LLC, 1205 Wyoming Avenue, Forty Fort, PA 18704.

Second Notice

ESTATE OF JOHN R. COYNE A/K/A JOHN COYNE, late of Scranton, Pennsylvania (died June 4 2020). All persons indebted to the estate shall make payment and those having claims or demands are to present same without delay to the Executrix, Linda Marcks, or Richard A. Fanucci, Attorney for the Estate, 1711 Main Street, Blakely, PA 18447.

RE: **ESTATE OF JAMES G. DEMPSEY A/K/A JAMES G. DEMPSEY, M.D.**, late of Jefferson Township, Pennsylvania (died May 8, 2020). Notice is hereby given that Letters Testamentary for the Estate of James G. Dempsey a/k/a James G. Dempsey, M.D. have been issued to Kristin Dempsey O'Donnell, Executrix of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executrix at 1701 Monroe Avenue, Dunmore, PA 18509 or to Robert T. Kelly, Jr., Myers, Brier & Kelly, LLP, Attorney for the Estate, 425 Spruce Street, Suite 200, Scranton, PA 18503.

RE: **ESTATE OF ROBERT J. KASPERKOSKI**, late of Taylor, Lackawanna County, Pennsylvania (died June 1, 2020). Notice is hereby given that Letters Testamentary for the Estate have been issued to Ann Harrington, Executrix of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executrix, or to

John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street-Suite 201, Scranton, PA 18503.

ESTATE OF DONALD MCANDREWS A/K/A REV. MSGR. DONALD A. MCANDREWS, late of Dunmore, Lackawanna County, PA (died June 18, 2020). Letters Testamentary having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Mary Helen Brown, Executor, 722 Sherwood Avenue, Dunmore, PA 18512, or to Jane M. Carlonas, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 S. Abington Road, PO Box 240, Clarks Summit, PA 18411.

ESTATE OF MILDRED F. STASH, DECEASED, late of 1101 VINE STREET, SCRANTON, PA 18510, (Died April 12, 2020) Karen L. Biondi, Executrix; Dante A. Cancelli, Esquire, Suite 401, 400 Spruce Street, Scranton, Pennsylvania 18503, Attorney.

ESTATE OF FLORENCE V. ZRUDLO, late of Old Forge, Lackawanna County, Pennsylvania (Died May 8, 2020). Letters of Testamentary in the above estate having been granted, all persons having claims or demands against the estate of the decedent shall make them known and present them, and all persons indebted to said estate shall make payment thereof without delay to Executor, Brian Desany, 4285 Regal Town Lane, Lake Mary, Florida, 32746 or to Ernest D. Preate, Jr., Esquire, Attorney for the Estate, 204 Wyoming Avenue, Second Floor, Scranton, PA 18503.

Third Notice

RE: **ESTATE OF STANLEY J. FERRIT**, late of Old Forge, Pennsylvania (died May 1, 2020). Notice is hereby given that Letters Testamentary for the Estate of Stanley J. Ferrit have been issued to David Ferrit, Executor of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executor at 121 Edgewood Drive, Old Forge, PA 18518 or to Kris E. Fendrock, Myers, Brier & Kelly, LLP, Attorney for the Estate, 425 Spruce Street, Suite 200, Scranton, PA 18503.

NOTICE IS HEREBY GIVEN that Letters of Administration in the **ESTATE OF EILEEN A. FORGIONE**, (Date of Death: March 15, 2020) late of the Borough of Dickson City, Lackawanna County, Pennsylvania, have been granted to the undersigned. All persons indebted to said estate are required to make immediate payment and those having claims shall present them for settlement to: LAURIE SCHILD, ADMINISTRATRIX, KEVIN R. GREBAS, ESQUIRE, COLBERT & GREBAS, P.C., 210 Montage Mountain Road – Suite A, Moosic, PA 18507.

ESTATE OF MICHAEL F. GEDMAN, late of Scranton, Lackawanna County, Pennsylvania, (died December 15, 2014). Notice is hereby given that Letters of Administration have been issued to Shirley A. Gedman, Administratrix. MARIANNE M. STIVALA, ESQUIRE, BRIAN J. CALI & ASSOCIATES, 103 EAST DRINKER STREET, DUNMORE, PENNSYLVANIA 18512.

RE: **ESTATE OF MICHAEL A. HEGEDUS**, late of Jefferson Township, Lackawanna County, Pennsylvania (died January 22, 2020). Notice is hereby given that Letters of Administration for the Estate have been issued to Andrew Hegedus and Robert Hegedus, Administrators of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit

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payment without delay to the Administrators, or to John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street-Suite 201, Scranton, PA 18503.

ESTATE OF ELLEN JONES, late of the City of Scranton, PA died June 5, 2020, Co-Administratrix Susan Hovanecs and Carol A. Hovanecs, Terrence V. Gallagher Attorney for the Estate, 416 Jefferson Avenue, Scranton, PA 18510. Notice is hereby given that Letters Administration have been granted. All persons indebted to the said estate are required to make payment, and those having claims or demands are to present the same without delay to the Administrator's name.

ESTATE OF MARY SCHMIDLING, A/K/A SISTER MARY SCHMIDLING, IHM, late of Scranton, Lackawanna County, Pennsylvania (died May 17, 2020). Letters Testamentary having been granted, all persons having claims or demands against the estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Sister Ellen Maroney, IHM, Executor, 2300 Adams Avenue, Scranton, Pennsylvania 18509 or to Jenna Kraycer Tuzze, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF NORMA TOSTI A/K/A NORMA C. TOSTI, late of Archbald, Lackawanna County, PA (died May 30, 2020). Letters Testamentary were granted to John Laboranti, Jr. Creditors present claims and debtors make payment to the Executor, or to Kim A. Giombetti, Esq., The Ritz Building, 222 Wyoming Avenue, Scranton, PA 18503, Attorney for the Estate.

ESTATE OF WILLIAM T. WALSH, Late of Dalton, Pennsylvania, Date of Death: November 27, 2019, Executrix: Alicia Holden c/o her Attorney MARK W. BUFALINO, ESQUIRE, Elliott Greenleaf & Dean, 15 Public Square, Suite 310, Wilkes-Barre, PA 18701, (570) 371-5290.

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation for **Amja Medical Alliance, Inc., Inc.** have been filed with the Department of State, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on June 11, 2020. The Corporation has been incorporated under the provisions of the Corporation Law of 1988.

Jacques Amja
369 Orchard Street
Old Forge, PA 18518
Secretary. T1-7/24

FICTITIOUS NAME

NOTICE is hereby given pursuant to the provisions of the Fictitious Names Act of 1982, (54 Pa.C.S. §§ 301 et seq.) that an application for registration of a fictitious name was filed in the office of the Department of State of the Commonwealth of Pennsylvania, for the conduct of a business under the fictitious name of DeSanto Legacy Advisors, with its principal office or place of business at 52 Glenmaura National Blvd, Ste. 303, Moosic, PA 18507. The names and addresses, including street and number, if any, of all persons who are parties to the registration are: Derek J. DeSanto, 52 Glenmaura National Blvd., Suite 303, Moosic, PA 18507.

T1-7/24

FICTITIOUS NAME

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on April 01, 2020 for **The Mane Room** at 895 Providence Rd. Scranton, PA 18505. The name and address of each individual interested in the business is Kristen Michelle Schoonmaker at 895 Providence Rd. Scranton, PA 18505. This was filed in accordance with 54 PaC.S. 311.

T1-7/24

NOTICE

NOTICE OF PROPOSED PRIVATE SALE #1291

On July 2, 2020, the Lackawanna County Tax Claim Bureau received and approved a private sale offer to purchase the property identified as tax map NO. 17609-LL0-1290 located at 49 Rockledge Terrace, Taylor Borough, Pennsylvania 18517 pursuant to the terms and conditions of Section 5860.613 of the Real Estate Tax Sale Law, 72 P.S. § 5860.613, for \$500.00 free and clear of all tax claims and tax judgements. An interested party, or a person interested in purchasing the property may, if not satisfied that the sale price approved by the Bureau is sufficient, within forty-five (45) days after notice of the proposed sale, petition the Court of Common Pleas of Lackawanna County to disapprove the sale.

Joseph J. Joyce, III, Acting Director
Lackawanna County Tax Claim Bureau
T2-7/31