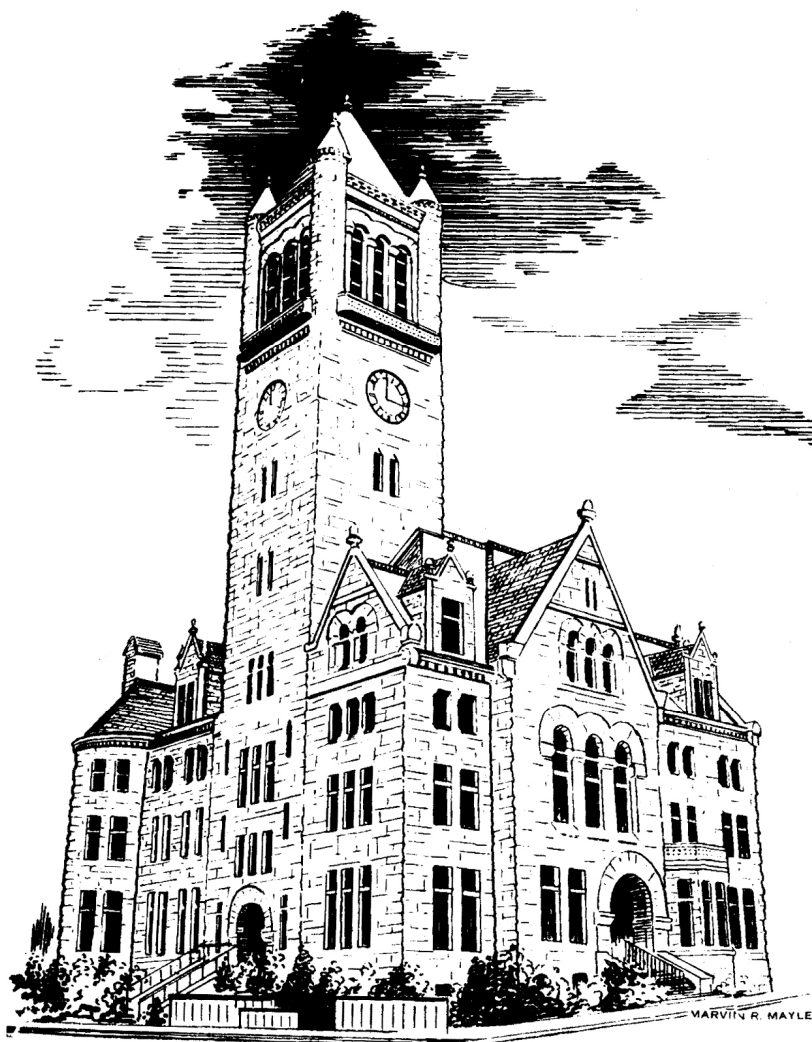


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FAYETTE LEGAL JOURNAL

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ESTATE NOTICES

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

Third Publication

ERLENE J. CICHETTI, a/k/a ERLNE NEMISH CICHETTI, a/k/a ERLNE N. CICHETTI, late of Brownsville,

Redstone Township, Fayette County, PA (3)

Executrix: Angela M. Zimmerlink
624 Polly Gap Road
Clayton, Georgia 30525
c/o Peacock Keller, LLP
95 West Beau Street, Suite 600
Washington, PA 15301
Attorney: Dorothy A. Milovac

PATRICIA CRAIG, late of North Union Township, Fayette County, PA (3)

Executor: David Lee Craig
c/o Adams Law Offices, PC
55 East Church Street, Suite 101
Uniontown, PA 15401
Attorney: Jason Adams

CONSTANCE GUZZO, a/k/a CONSTANCE A. GUZZO, late of South Union Township, Fayette County, PA (3)

Personal Representative: Santino Guzzo
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: Christian Sese

THOMAS R. STEWART, V, a/k/a THOMAS RICHARD STEWART, V ("TJ") late of Dunbar Township, Fayette County, PA (3)

Executor: Annette M. Wingrove and Robert C. Wingrove, Jr.
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Samuel J. Davis

ROBERT A. TUPTA, late of Uniontown City, Fayette County, PA (3)

Executrix: Janice Sutton
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

JOHN WILSON, a/k/a JOHN D. WILSON, late of Bullskin Township, Fayette County, PA

Administratrix: Therese Simpson (3)
105 Big Spring Road
Acme, PA 15610
c/o Tremba Kinney Greiner & Kerr
1310 Morrell Avenue, Suite C
Connellsville, PA 15425
Attorney: John Greiner

Second Publication

FRANK M. ANGELILLI, late of Brownsville Township, Fayette County, PA (2)

Administratrix: Kristina Busti
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

SANDRA L. MCCLEAN, late of Franklin Township, Fayette County, PA (2)

Personal Representative: Ryan C. McClean
c/o George & George
92 East Main Street
Uniontown, PA 15401
Attorney: G.T. George

DONNA LEE PHILLIPS, late of South Union Township, Fayette County, PA (2)

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

SHIRLEY LOUISE POPIESH, late of Brownsville, Fayette County, PA (2)

Personal Representative: Tammie Popiesh
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

JOSEPH VERNON, JR., late of Redstone Township, Fayette County, PA (2)
Administrator: Richard A. Husband
208 South Arch Street, Suite 2
Connellsville, PA 15425

First Publication

PATRICK DOYLE, late of Mill Run, Fayette County, PA (1)
Administratrix: Alexis Doyle
c/o Bononi & Company PC
20 North Pennsylvania Avenue
Greensburg, PA 15601
Attorney: Eric Bononi

DENISE G. FLEMING, late of Jefferson Township, Fayette County, PA (1)
Executrix: Barbara Joyce DiNardo
c/o 4 North Beeson Boulevard
Uniontown, PA 15401
Attorney: Sheryl R. Heid

SYLVIA PEARL HILL, a/k/a SYLVIA P. HILL, late of Luzerne Township, Fayette County, PA (1)
Executrix: Sylvia A. Boyle
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401
Attorney: James T. Davis

CONSTANCE SPALEK, a/k/a CONNIE SPALEK, a/k/a CONNIE E. SPALEK, late of Uniontown, Fayette County, PA (1)
Executrix: Nancy M. Oris
c/o DeHaas, Law, LLC
51 East South Street
Uniontown, PA 15401
Attorney: Ernest P. DeHaas, III

LEGAL NOTICES

Articles of Incorporation

Notice is hereby given that Articles of Incorporation were filed with the Pennsylvania Department of State, on September 30, 2024, for a Corporation organized under the Business Corporation Law of 1988, as from time to time amended. The name of the Company is M.a.a.D. Logistics, Inc having an address of 22 Church Street, Smithfield, PA 15478.

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on June 11, 2025 for a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The name of the Company is SWITCH, LLC, having an address of 810 Springfield Pike, Apt. 3, Connellsville, PA 15425.

Thomas W. Shaffer, Esquire
11 Pittsburgh Street
Uniontown, PA 15401
724-425-1162

Fayette County Court of Common Pleas
No. 2610 of 2024, G.D.

In Re: Name Change of
Tia Catherine Fani

NOTICE

Notice is hereby given that a hearing on the petition of Tia Catherine Fani to change her name to Tia Catherine Stoneking shall be held on July 17, 2025, at 1:15 p.m. in Courtroom No. 4, Fayette County Courthouse, Uniontown, Pennsylvania, where all interested parties may appear and show cause, if any, why the request of the petitioner should not be granted.

IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION—LAW
NO. 1057 of 2025, G.D.

IN THE MATTER OF
PETITION FOR CHANGE OF NAME OF
TIMOTHY CHARLES CRAMER

ORDER

AND NOW, this day of June 9, 2025, upon the motion of the petitioner, it is ORDERED that a hearing on the Petition for Change of Name is fixed for August 12, 2025, at 2:30 p.m. in Room Four of Fayette County Courthouse, Pennsylvania.

BY THE COURT:
VERNON, J.

NOTICE IS HEREBY GIVEN that on the 11th day of June, 2025, the Petition of Austin Walls was filed in the Court of Common Pleas of Fayette County, Pennsylvania, to change the name of the Petitioner to Lexi Jade Pearce.

A hearing on the Petition will be held on Tuesday, July 22, 2025 at 9:00 A.M. in Courtroom No. 4, Fayette County Courthouse, Uniontown, Pennsylvania, at which time any person interested may appear and show cause, if any, why the Petition should not be granted.

WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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Registers’ Notice

Notice by JEFFREY L. REDMAN, Register of Wills and
Ex-Officio Clerk of the Orphans’ Court Division of the Court of Common Pleas

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans’ Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans’ Court Division of Fayette County on

Monday, July 2, 2025, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2624-0469	PAUL T. PRIESTER, JR.	Paul Timothy Priester, Sr., Executor

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, July 16, 2025, at 9:30 A.M.

in Courtroom No. 1 of the **Honorable President Judge Steve P. Leskinen** or his chambers, Second Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

Notice is hereby given to heirs, legatees, creditors, and all parties in interest that accounts in the following estates have been filed in the Office of the Clerk of the Orphans’ Court Division of the Court of Common Pleas as the case may be, on the dates stated and that the same will be presented for confirmation to the Orphans’ Court Division of Fayette County on

Monday, July 2, 2025, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2623-1043	THOMAS A. OSTROWSKI	Thomas E. Ostrowski and Michael J. Ostrowski, Co-Executors

Notice is also hereby given that all of the foregoing Accounts will be called for Audit on

Monday, July 16, 2025, at 9:30 A.M.

in Courtroom No. 5 of the **Honorable Judge Joseph M. George, Jr.** or his chambers, Third Floor, Courthouse, Uniontown, Fayette County, Pennsylvania, at which time the Court will examine and audit said accounts, hear exceptions to same or fix a time therefore, and make distribution of the balance ascertained to be in the hands of the Accountants.

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

McLUCKEY DEVELOPMENT, LLC, :
Plaintiff, :
v. :
GNAGEY DEVELOPMENT COMPANY, L.P., :
Defendant, :
and :
HARRY W. BURD, JR., and BARBARA JO :
BURD, his wife, and BURD PLAZA, INC., and :
WHARTON TOWNSHIP, : No. 1375 of 2022, G.D.
Additional Defendants. : Honorable Joseph M. George, Jr.

June 10, 2025

The various claims, Crossclaims, and Counterclaims in this matter arise from two sales of a parcel of commercial land known as 4142 National Pike, Wharton Township, Fayette County, Pennsylvania, (“Property”) and whether Wharton Township issued a permit for the operation of an on-site sewage system. In 2002, Additional Defendants, Harry W. Burd, Jr., Barbara Jo Burd, his wife, and Burd Plaza, Inc. (collectively, “the Burds”) constructed a gas station and convenience store on the Property, which is still operated as a Sunoco station today. The Burds sold the Property to Gnagey in 2015, and Gnagey later sold the same to McLuckey in 2020. In 2022, McLuckey received a notice from the Pennsylvania Department of Environmental Protection (DEP) that no permit had ever been issued for the on-site sewage system and that the existing system could not be used to service the Property. The DEP further indicated that there was no acceptable site on the property that could support an on-site sewage system.

McLuckey filed a Complaint against Gnagey on July 21st, 2022, for, inter alia, breach of contract, as Gnagey had warranted that it possessed a permit for the operation of the on-site sewage system for the Property in the Sales Agreement between those parties. In fact, Gnagey did not have a permit in its possession, rather, it had based the representation about the permit on similar representations the Burds had made to Gnagey in the earlier sale between those parties. Gnagey joined the Burds as parties on July 26th, 2022, and filed a Crossclaim on October 19th, 2022. The Burds filed a Praecipe to Join Wharton Township as additional defendants on September 29th, 2022, and a Counterclaim against Gnagey on November 23rd, 2022. After extensive discovery, McLuckey, Gnagey, and Wharton Township filed Motions for Summary Judgment.

Summary Judgment

Summary Judgment is governed by Pa. R.C.P. 1035.2 and is only permitted after the relevant pleadings are closed. A record that supports summary judgment will either show the material facts are undisputed or contain insufficient evidence of facts to make out a prima facie cause of action or defense, leaving no issue to be submitted to the fact finder. *DeArmitt v. New York Life Ins. Co.*, 73 A.3d 578, 586 (Pa. Super. 2013). Summary judgment may only be granted in cases that are clear and free from doubt. *Weiss v. Keystone Mack Sales, Inc.*, 456 A.2d 1009, 1011 (Pa. Super. 1983).

McLucky v. Gnagey

McLucky filed a Motion for Summary Judgment against Gnagey based on representations in the Agreement of sale that Gnagey was in possession of a permit for the on-site sewage system. Gnagey did not file a response to the Motion pursuant to Rule 1035.3. Though it does not appear that any party has made the Sales Agreement between McLucky and Gnagey part of the record, Gnagey does not dispute that it represented in Article 5, Section 5.01, that it was in possession of the permit for the on-site sewage system, when in fact it did not have the actual permit, and had based those representations on prior representations the Burds had made during the earlier sale from the Burds to Gnagey. As there is no dispute as to these material facts, Summary Judgment in favor of McLucky against Gnagey is appropriate as to liability only, with the issues of indemnification by the Burds and the amount of damages remaining as issues in the case.

Gnagey v. the Burds

Gnagey filed a Motion for Summary Judgment against the Burds on Gnagey's Crossclaim against the Burds and on the Burds' Counterclaim against Gnagey. Gnagey's Motion is based on Harry Burd, Jr.'s admissions during his deposition testimony that he has been unable to locate a permit for the on-site sewage system and did not have possession of a permit at the time of the sale, and his representations to Gnagey prior to closing that there was an alternate site on the Property for an on-site sewage system. Gnagey also relies on Wharton Township's admission in its Response to Request for Admissions from Wharton Township to Gnagey that no permit was ever issued.

There are clearly unresolved issues of material facts as to the claims between these parties that would preclude summary judgment. The underlying question in this matter is whether a permit was ever issued for the on-site sewage system on the Property and that question has not been resolved. There are also questions of material fact as to what extent Gnagey was aware of the issues with the system and permit prior to the sale to McLucky and whether any subsequent actions they took (or did not take) after the Burd sale with the on-site system and any potential alternate site contributed to the issues on the Property.

Gnagey cites to Wharton Township's Admission (in response to Gnagey's Requests for Admissions) that the Township never issued a permit in the matter and contends that pursuant to the language of Rule 4014(d), the admission is conclusively established as

fact for the purposes of the case. “Statements of fact by one party in pleadings, stipulations, testimony, and the like, made for that party’s benefit, are termed judicial admissions and are binding on the party.” John B. Conomos, Inc., v. Sun Co., Inc. (R&M), 831 A.2d 696, 712 (Pa. Super. 2003)(emphasis added). Judicial admissions are deemed true and cannot be contradicted by the admitting party. *Id.* To qualify as a judicial admission, it must be a clear and unequivocal admission of fact and cannot be a legal theory or a conclusion of law. *Id.*, at 713. “When there is uncertainty surrounded a conceded fact, it is the role of the judge or jury as fact finder to determine which facts have been adequately proved and which must be rejected.” *Id.*

Here, the admission is presumed true as to Wharton Township, but not against the Burds, who may challenge its veracity. As the statement is directly contradicted by other evidence in the record, a 2022 email from the Township Secretary-Treasurer sent to Harry Burd and attached as the last exhibit to the Burds’ Response to Defendant’s Motion for Summary Judgement, the Court cannot accept Wharton Township’s admission as conclusively true against the Burds. There is an important distinction between having no record of issuing a permit (where the Burds clearly applied for and complied with many of the requirements of the permit process, but the Township has no records of those documents), and a definitive statement that the permit was never issued. Under these circumstances, the Burds are entitled to have the opportunity to challenge the basis for Wharton Township’s conclusion that there was never a permit issued. *Wharton Township v the Burds*

Wharton Township filed a Motion for Summary Judgment on the basis that the parties have conducted extensive discovery and the Burds, who joined the Township by writ and have not filed a complaint or other claim, have failed to plead or produce evidence of a cognizable claim against Wharton Township. The Burds contend that the Motion is premature, as no Complaint has been filed against Wharton Township and therefore the pleadings cannot be closed, a prerequisite to filing a motion for summary judgment pursuant to Rule 1035.2. Summary Judgment is not the proper form of a motion for this purpose at this stage when there have been no pleadings filed. *Brower v. Berlo Vending Co.*, 386 A.2d 11, fn.3 (Pa. Super. 1978). Wharton Township’s recourse would be to praecipe the Prothonotary to enter a rule upon the Burds to file a Complaint pursuant to Rule 1037(a) (subject to the additional notice requirements of Rule 237.1(a)(2), with the option to file a second praecipe for an entry of non pros if the Burds would fail to file a complaint within twenty days of service of the rule. Thus, the Motion for Summary Judgment against the Burds and in favor of Wharton must be denied. However, this Court agrees that the matter should move forward and will issue a rule upon the Burds to file a complaint against Wharton Township.

Therefore, the Court enters the following Order:

ORDER

AND NOW, this 10th day of June, 2025, upon consideration of the Motions for Summary Judgement filed by the various parties in the above-captioned action, the Court hereby ORDERS and DIRECTS as follows:

The Motion for Summary Judgment filed by Plaintiff, McLuckey Development, LLC, against Defendant, Gnagey Development Company, L.P. is hereby GRANTED on the issue of liability only, with the issues of indemnification and damages still to be litigated.

The Motion for Summary Judgment filed by Defendant, Gnagey Development Company, L.P. against the Additional Defendants, Harry W. Burd, Jr., Barbara Jo Burd, and Burd Plaza, Inc., is hereby DENIED, without prejudice, as there are unresolved issues of material fact.

The Motion for Summary Judgement filed by Additional Defendant, Wharton Township, against Additional Defendants, Harry Burd, Jr., Barbara Burd, and Burd Plaza, Inc., (“Burds”), is DENIED, without prejudice, as premature. The Court further DIRECTS that the Burds shall have twenty (20) days of the date this Order is mailed by the Prothonotary to file a Complaint against Wharton Township. If the Burds fail to do so within that time period, Wharton Township may file a praecipe with the Prothonotary to enter a judgment of non pros pursuant to Pa. R.C.P. 1037(a) without any requirement for further notice prior to filing the praecipe.

BY THE COURT:
JOSEPH M. GEORGE, JR., JUDGE

ATTEST:
PROTHONOTARY

LUNCH & LEARN SERIES

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

- Date: **Wednesday, July 23rd from 12:00 p.m. to 2:00 p.m.**
- Location: **Fayette County Courthouse - Courtroom Four**
- Discussion topics: **Avoiding Legal Malpractice Seminar**
- Presenters: **Bethann R. Lloyd, Esquire and James T. Davis, Esquire**

CLE Credit

2.0 hours of Ethics CLE credit for the program. The fees are as follows:

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2020

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**** All fees to be paid at the door ****
Lunch will be provided.

RSVP

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or email to cindy@fcbar.org on or before Monday, July 21st.

Attorneys who are insured through the Pennsylvania Bar Association Insurance Program, advised and administered by USI Affinity, have the ability to earn up to a 7.5% discount on their malpractice insurance based on one's attendance at this CLE. Questions regarding your LPL insurance should be directed to USI Affinity at 610-537-1368.