

## LACKAWANNA JURIST

### JUDICIAL OPINION

**CASE NAME AND NUMBER:** Hoffmeier v. Northup, 2020 WL 1079833 (Lacka. Co. 2020)

**DATE OF DECISION:** March 6, 2020

**JUDGE:** Terrence R. Nealon

#### **ATTORNEYS INVOLVED:**

Patrick M. Walsh, Esquire,, Counsel for Plaintiffs

Jeffrey D. Northup, Self-Represented

Lisa R. Northup, Self-Represented

Edward J. Hayes, Esquire, Counsel for Defendants, Thomas M. Burke and Therese M. Burke

#### **SUMMARY OF OPINION:**

The holders of a right of first refusal (ROFR) to purchase property filed an action against the promissors and the transferees after the promissors sold the property to the transferees without first notifying the ROFR holders of the proposed sale and affording them the opportunity to match the offer made by the transferees and purchase the property. The transferees filed a motion for summary with respect to the holders' claim for specific performance which sought to have the property conveyed to the holders in exchange for their payment of the transferees' purchase price. Relying upon a recent ruling by the Superior Court of Pennsylvania, the transferees argued that the ROFR is not a covenant that runs with the land, and therefore, cannot be enforced against a subsequent purchaser via a specific performance. The holders asserted that the authority cited by the transferees only addresses ROFR in the context of a mortgage foreclosure action involving an involuntary sheriff's sale, and maintained that the transferees were not entitled to summary judgment as *bona fide* purchasers for value since their prepurchase title search disclosed the holders' ROFR.

The Superior Court holding upon which the transferees relied decided the narrow issue of whether a ROFR survives a foreclosure action where the property is sold by the sheriff at the conclusion of an involuntary process, rather than by the owner as part of a voluntary transfer in exchange for payment of a solicited purchase price. Furthermore, for more than 80 years, the Supreme Court of Pennsylvania has recognized that a ROFR may be enforced by specific performance compelling the promissors and the transferees to convey the property to the ROFR holders once they tender the sales price that was paid by the transferees. Since the Superior Court did not, and could not, abrogate that Supreme Court precedent, and in light of the triable issue of fact as to whether the transferees were innocent or *bona fide* purchasers for value based upon their title search, the transferees' motion for summary judgement was denied..

### JUDICIAL OPINION

**CASE NAME AND NUMBER:** Vicki v. Altuner, 2020 WL 1192357 (Lacka. Co. 2020))

**DATE OF DECISION:** March 12, 2020

**JUDGE:** Terrence R. Nealon

#### **ATTORNEYS INVOLVED:**

Eli S. Levine, Esquire, Counsel for Plaintiff, Brian Vicki

Patrick J. Gibbons, Esquire, Robert R. Hopkins, Esquire, Counsel for Defendant, Valerie Altuner

Martin Louis Cron, Jr., Self-Represented

#### **SUMMARY OF OPINION:**

A jogger who was attacked and bitten by unrestrained pitbulls filed a personal injury suit against the dog's owner and the out-of-possession landlord who leased the premises to the owner. The landlord filed a motion for summary judgment asserting that she did not owe any duty of care to the jogger since she did not have any prior knowledge of the pitbulls' dangerous propensity. In the alternative, she contended that she could not be found to have breached any duty inasmuch as she had already initiated an eviction proceeding against the owner for non-payment of rent by the time that his dogs attacked the jogger.

The landlord's property manager testified that he had advised the landlord that her handyman had been attacked and bitten by the owner's dog 20 days prior to the date that the pitbulls bit the jogger. The landlord claimed that the property manager merely informed her that the handyman "had an incident" with "an aggressive dog" owned by the tenant, but did not specifically advise her that the handyman had been bitten. She further stated in her deposition that if she had known of the prior biting of the handyman, she "would have been very aggressive" and contacted the local "animal control" or humane society to have the dogs removed. Since the summary judgment record contained issues of fact as to whether the owner had knowledge of the presence of a dangerous animal on the leased premises at the time that the jogger was attacked, the landlord did not establish as a matter of law that she owed no duty of care to the jogger. Similarly, an issue of fact existed as to whether the landlord breached that duty by failing to seek immediate injunctive relief or the intervention of the local animal control authority to have the pitbulls removed from the leased premises following the attack of the handyman. Accordingly, the landlord's motion for summary judgment was denied.

## ESTATES

### First Notice

NOTICE IS HEREBY GIVEN that Letters Testamentary in the **ESTATE OF SANDRA JONES** late of the Borough of Old Forge (Date of Death: February 1, 2020), 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: STACIE A. BEVIGLIA, EXECUTRIX, KEVIN R. GREBAS, ESQUIRE, COLBERT & GREBAS, P.C., 210 Montage Mountain Road – Suite A, Moosic, PA 18507.

RE: **ESTATE OF RICHARD D. LEVY**, late of Clarks Summit, Lackawanna County, Pennsylvania (died February 25, 2020). Notice is hereby given that Letters Testamentary for the Estate have been issued to Brian Levy and Justin Levy, Co-Executors 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 Co-Executors, or to John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street - Suite 201, Scranton, PA 18503.

**ESTATE OF ANTHONY A. LLOYD A/K/A ANTHONY ALAN LLOYD**, late of Scranton, Lackawanna County, Pennsylvania (died January 28, 2020). Letters of Administration 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 Peoples Security Bank (Trust Department), the Administrator, 150 N. Washington Avenue, Scranton, Pennsylvania 18503 or to James J. Gillotti, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, PO Box 240, Clarks Summit, PA 18411.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted in the **ESTATE OF ANN L. NORDMARK**, late of Dalton, Lackawanna County, Pennsylvania. Date of Death February 2, 2020. Any person(s) having claim against or indebted to estate present same to: Alan H. Nordmark, 205 2<sup>nd</sup> Street, Dalton PA 18414. Attorney of Record: Kevin J. O'Hara, Esquire 11 Park Place Carbondale PA 18407.

### Second Notice

**ESTATE OF JOHN J. BOSHA** late of Scranton, Lackawanna County, Pennsylvania (died March 25, 2020). Notice is hereby given that Letters of Administration have been issued to James A. Bosha, Administrator of the Estate. All those having claims or demands against the Estate of indebtedness owed to the Estate shall present claims or remit payment without delay to James A. Bosha, c/o John J. McGee, Attorney for the Estate, 400 Spruce Street, Ste 302, Scranton, PA 18503.

**ESTATE OF ROBERT A. COER, Sr.**, late of Scranton, Pennsylvania, (died 01/03/2020) Kathy Gassler, Administrator; William J. Hall, Attorney for the Estate, 307 N. Blakely Street, P.O. Box 272, Dunmore, PA 18512.

NOTICE is hereby given that Letters of Administration have been granted in the **ESTATE OF BRUCE E. GORLESKY, A/K/A BRUCE GORLESKY**, late of Borough of Taylor, Lackawanna County, who died March 2, 2020. All

persons indebted to said Estate are requested to make payment and those having claims to present the same, without delay, to the Administrator, Jonathan B. Gorlesky and his Attorney. **DAVID CHERUNDOLO, ESQUIRE**, 410 JEFFERSON AVENUE, SCRANTON, PA 18510.

NOTICE IS HEREBY GIVEN that Letters Testamentary have been granted to Annette Tagliaterra, Executrix of the **ESTATE OF ANDREW J. GOWARTY, SR. A/K/A ANDREW GOWARTY**, late of Old Forge, Lackawanna County, Pennsylvania, who died on January 5, 2020. 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 Executrix, c/o Biagio V. Musto, II, Esquire, 171 William Street, Pittston, PA 18640.

**ESTATE OF BLODWYN JONES, AKA BLODWYN B. JONES**, late of Scranton, Lackawanna County, Pennsylvania (died March 25, 2020). Personal Representatives are Beverly A. Mizanty, 500 Reeves Street, Dunmore, PA, 18512 and William D. Jones, 1152 Preston Place, Apartment 2, Scranton, PA, 18504. Attorney for the Estate is Nancy M. Barrasse, Esquire, 224 Adams Avenue, Scranton, Pennsylvania 18503.

RE: **ESTATE OF LUCY PEPE, A/K/A LUCIA PEPE**, late of S. Abington, Lackawanna County, PA (died January 21, 2020), 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: Nicholas Carlini, Executor, or to his attorney: Thomas J. Jones, Jr., Esquire, 410 Spruce Street, Suite 301, Scranton, Pennsylvania 18503.

**ESTATE OF RICHARD REMONDELLI**, Deceased, late of Benton Township, Pennsylvania (Died May 2, 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 Monica A. McDonald, Administratrix, c/o Attorney Joseph F. Gaughan, 300 Mulberry Street, Suite 303, Scranton, PA 18503.

### Third Notice

**ESTATE OF GLADYS D. FOYTACK**, late of the City of Scranton, Lackawanna County, Pennsylvania (date of death: November 1, 2019) Executrix: Norma C. Kedulick, Attorneys: Needle Law, P.C., 240 Penn Avenue – Suite 202, Scranton, PA 18503. P. Timothy Kelly, Esquire.

**ESTATE OF ANTHONY FRANCHAK A/K/A ANTHONY FRANCHAK, JR.** late of Jermyrn, Lackawanna County, Pennsylvania (died February 12, 2020). Notice is hereby given that Letters Testamentary have been issued to Stephen Franchak, 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 Jule Gaige, Attorney for the Estate, 615 Clay Avenue, Third Floor, Scranton, PA 18510. 570-350-5225.

**ESTATE OF STANLEY F. GRIGALUNAS, A/K/A STANLEY GRIGALUNAS**, of the Borough of Jessup, Pennsylvania (died March 10, 2020), Kellie A. Grigalunas., a/k/a Kellie Ann Grigalunas, Executrix, PAUL SOTAK, Attorney, 410 Jefferson Avenue, Scranton, Pennsylvania 18510. NOTICE IS HEREBY GIVEN THAT Letters Testamentary have been granted in the following Estate. All persons indebted to said estate are required to make payment, and those having claims or demands to present same without delay to the Executrix named.

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**ESTATE OF MICHAEL P. JARROW**, late of Peckville, Pennsylvania, died on March 2, 2020. All persons having claims against the Estate shall present same to Executrix, Donna Taramelli, c/o Donald W. Jensen, Esquire, 538 Spruce Street, Suite 730, Scranton, Pennsylvania 18503.

NOTICE is hereby given that Letters of Administration have been granted in the **ESTATE OF MATTHEW MISCHELLO**, late of Borough of Old Forge, Lackawanna County, who died March 24, 2020. All persons indebted to said Estate are requested to make payment and those having claims to present the same, without delay, to the Co-Administrators, Natalie Mischello and Matthew Mischello, Jr., and their Attorney. DAVID CHERUNDOLO, ESQUIRE, 410 JEFFERSON AVENUE, SCRANTON, PA 18510.

### **FICTITIOUS NAME**

Notice is hereby given that an application was filed with the Secretary of the Commonwealth of Pennsylvania on 3/6/2020 for Registration of the Fictitious Name "**Linda & Monica Trucking Corporation**". The principal place of business is located at 626 Pancoast St., Dickson City, PA 18519.