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TABLE OF CONTENTS

Washington County Court of Common Pleas Calendar.....	2
Obiter Dictum	3
WCBA Online CLE Course List.....	4
OPINION: McLaughlin v. The Washington Hospital et. Al. (154-170).....	5
Estate Notices	22
Corporation Notice.....	27
Real Estate Notice.....	27
Miscellaneous Notice.....	28

CONTAINING FOR TEMPORARY USE ADVANCE SHEETS OF THE DECISIONS OF
THE JUDGES OF THE 27TH JUDICIAL DISTRICT OF PENNSYLVANIA AND THE
OFFICIAL LEGAL NOTICES AND ADVERTISEMENTS OF THE SEVERAL COURTS
OF THE COUNTY OF WASHINGTON, PENNSYLVANIA.

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JUDGES & COURT/MOTIONS SCHEDULE

**Complete motions info during judicial emergency at
www.washingtoncourts.us**

Judge	Ctrm	Motions Court Schedule
Emery, Katherine (PJ)	CR#1	Tu, W, Th 9:15a. Judge of the Term, Civil: 1st-15th of each month
DiSalle, John	CR#2	Tu 9:15a for Criminal Cases; Th 9:15a for Orphans' Court (copy of motion to be served beforehand to Audit Atty) "Until further order , all motions, incl. Criminal & Orphans' Court, shall be handled remotely via email or fax sent to chambers. It is filing party's responsibility to notify all necessary parties that a motion is being filed and to state whether motion is contested. Contested motions shall include a scheduling order. Any Motions for Modification of Bail or Release from Probation must be circulated first to Probation/Pretrial Services & D.A.'s Office for acknowledgment of objection or consent."
Gilman, Gary	CR#4	Tu, Th 9:15a. Judge of the Term, Criminal: March
Costanzo, Valarie	CR#3	Tu, Th 9:15a. Judge of the Term, Criminal: April During the judicial emergency , all motions shall be sent to the following email addresses (See website for motions format/add'l info): lori.hoag@washingtoncourts.us and jennifer.houpt@washingtoncourts.us .
Lucas, Michael	CR#5	M 1:15p and Tu, W, Th 8:45a; also Fr 8:45a when Civil Judge of the Term, 16th-end of each month
Neuman, Brandon	CR#6	Motions on Tu (pro se & attys; motions due by noon on Fri) and Wed (attys; motions due by noon on Mon). Starting 7/6, all motions will be heard by phone. For all motions, sign-up outside office. No motions accepted via email or mail. NO Motions July 14, ALL motions that week on July 15 NO Motions week of August 3
McDonald, Traci	CR#7	W, Th 9:15a. Contact Daryl Holt, Judicial Secretary at daryl.holt@washingtoncourts.us re motions scheduling. All Dependency Hearings and Delinquency matters will be held via Microsoft Teams —special accommodations contact Court in advance of hearing.

COURT CALENDARS

Trial Term—(Limited) Criminal Jury Selection:..... Aug 3, 4, 10, 11.
 Trial Term—Civil Jury Selection: Aug 17, 24
 Orphans' Court Audits: Sep 24, Nov 12
 Next Sheriff's Sales:..... Aug 7, Sep 4, Oct 2, Nov 6, Dec 4

NOTE: Per Administrative Order 2020-1 24 W.M. 2020 filed July 1

the local judicial emergency has been extended through September 7, 2020.

For a copy of this and other orders: www.pacourts.us/ujs-coronavirus-information.

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Obiter Dictum

From the *ABA Journal Daily Newsletter*:

[1] The unexpected deaths of two lawyers and a series of tornadoes didn't excuse the late filing (over four months) of an expert report on damages according to a recent ruling by a federal judge in Dallas, Texas. The expert initially estimated damages for interference with current and prospective contracts at about \$637,000 but later contended that the defendant's wrongdoing caused total damages of about \$4.2 million. In excluding the expert report, the court, while noting that the report was extremely important to the plaintiff, concluded that such fact is not enough to override enforcement of scheduling orders and further concluded that the prejudice to the defendant outweighed the risk of harm to the plaintiff.; [2] The U.S. Supreme Court stayed the execution of a Catholic inmate in Texas who is seeking a chaplain in the death chamber in order to consider the merits of whether to grant review of his case which contends that Texas' ban on clergy in the execution chamber violates his rights under the free exercise clause and the Religious Land Use and Institutionalized Persons Act, a 2000 law that protects the religious rights of inmates.; [3] According to a recent ABA report, privatized services and onerous fees are hurting public confidence in the criminal justice system and disproportionately affect minority communities and, particularly when driven by profit, fuel the distrust these communities feel toward the system. About 10 million Americans owe more than \$50 billion in debt related to their involvement in the justice system which includes not only fees to courts but also to private companies that contract with courts and government entities to provide for services such as drug and alcohol testing or electronic monitoring.; [4] The U.S. Court of Appeals for the D.C. Circuit ruled that the U.S. Department of Homeland Security had "sole and unreviewable discretion" to implement a policy that expanded the expedited removal of some immigrants who are in this country illegally.; [5] The U.S. Supreme Court has upheld restrictions on habeas review as applied to an asylum-seeker who was subject to a quick deportation process, the Court finding no violation of either the suspension clause or the due process clause.; [6] The State Bar of California is asking LegalMatch to cease and desist operations in the state after denying its request for certification as a lawyer referral service noting, among others, that some panel attorneys did not provide evidence of malpractice insurance and that LegalMatch didn't establish clear qualifications for lawyers claiming a practice focus.

WASHINGTON COUNTY BAR ASSOCIATION BOARD OF DIRECTORS 2020

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WCBA SUMMER BENCH BAR VIA ZOOM!

AUG. 27, AUG. 28

WATCH THIS SPACE FOR DETAILS!

WCBA ONLINE CLE COURSES AXOMEDUCATION.COM

For 2020, Pennsylvania attorneys are permitted to take all 12 of their required CLE credits via “online” sources. The following is a list of all courses WCBA has currently posted online at www.axomeducation.com.

Providing Notice of Oil & Gas Lease Termination (1s)
 COVID-19 & Employment Law (1s)
 Business Interruption Insurance and COVID-19 (1s)
 Coronavirus & Your Mental Health: A Lawyer’s Guide to Coping with Isolation, Anxiety, and Fear in Uncertain Times (1e)
 Oil & Gas Unitization After Act 85 & Briggs (1s)
 New PA Sentencing Guidelines (2s)

From the Winter Bench Bar, 2020:

Mediation Basics & Beyond (1s)
 Sexual Harassment Training (1e)
 Domestic Relations Rule Making Process & 2020 Update (1s)
 Understanding & Resolving Conflicts of Interest (1e)
 Post Production Costs in a Low Price Environment (1s)
 Tough Issues Administering Small Estates (1s)
 Mobile Home Park Management (1s)
 2020 Family Law Update (1s)
 Ten Pro Bono Tips (1e)
 Hot Topics in Municipal Law (1s)
 Low Speed Rear Impacts (1s)
 Appellate Practice: Petitions for Allowance of Appeals (1s)
 Modern Legal: Digitally Transforming the Legal Function (1s)
 Auto Law Update: Gallagher v GEICO (1s)
 PA Power Play (1s)

From Summer Bench Bar, 2019:

You Never Give Me Your Money: Fab Four Tunes,
 Rotten Apple Corps & the Legal Breakup of the Greatest Band Ever (1s)
 Clearing the Smoke: A Review of PA Medical Marijuana (1s)
 Hot Topics in PA Animal Law (1s)

From Winter Bench Bar, 2019:

Best Practices in Legal Research (1s)
 Internal Investigations Ethics (1s)
 Ethical Quandries in Dealing with the Psychiatrically Ill (2e)
 Employment Law: New Wage & Hour Issues (1s)
 How to Hack a Hacker: Protecting Client Data (1s)
 Guardianship Issues & 2019 Update (1s)
 Jury Selection: Civil & Criminal Trials (1s)
 Oil & Gas: Royalties & Post Production Costs (1s)
 Oil & Gas: Briggs & the Law of Capture (1s)
 Ethical Rainmaking: Building a Million Dollar Book of Business (1e)
 Ignition Interlocks & DUI Update (1s)
 Faultlines & Eruptions: Legal Ethics (2e)
 Basics of Construction Law (1s)
 SORNA Update 2019 (1s)
 Support & APL Rules Update 2019 (1s)

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION
2015-3223

Alyssa McLaughlin and William H. McLaughlin, Plaintiffs,
v. Amit Nahata, M.D.; Kathryn Simons, M.D.; Anne F. Josiah, M.D.;
Thomas Piroski, D.O.; Jessie Ganjoo, M.C.; Ashley Berkley, D.O.; The Washington
Hospital; And Washington Health System Washington Hospital, Defendants,
v. Dialysis Clinic, Inc., Additional Defendant

[1] The right to contribution is distinct from the underlying tort action. CONTRI-
BUTION – DEFENSES

[2] Due process not only requires an opportunity to be heard, but also that the op-
portunity is provided at a meaningful time and in a meaningful manner. CONSTITU-
TIONAL LAW – DUE PROCESS – PROTECTIONS PROVIDED AND DEPRIVA-
TIONS PROHIBITED IN GENERAL – NOTICE AND HEARING – IN GENERAL

[3] An agent may not seek contribution or indemnity from its principal. INDEM-
NITY – INDEMNIFICATION BY OPERATION OF LAW – RIGHT OF ONE COM-
PELLED TO PAY AGAINST PERSON PRIMARILY LIABLE – SECONDARY LIA-
BILITY

[4] Age old trial lawyer’s advice that “If you have the facts on your side, hammer
the facts. If you have the law on your side, hammer the law. If you have neither the facts
nor the law, hammer the table.” STANDARD OF EFFECTIVE ASSISTANCE IN
GENERAL – STRATEGY AND TACTICS IN GENERAL

[5] Particularly in medical malpractice litigation, “the axiom that decisions are to
be read against their facts...prevents the wooden application of abstract principles to
circumstances in which different considerations may pertain.” COURTS – ESTAB-
LISHMENT, ORGANIZATION, AND PROCEDURE – OPINIONS – OPERATION
AND EFFECT IN GENERAL

[6] The applicable rules of court, including former Rule 2252(d) and Rule 1031.1,
were formulated for the express purpose of bringing together into a single law suit caus-
es of action arising out of the transaction or occurrence or series of transactions or oc-
currences upon which the plaintiff’s cause of action is based. Indeed, the general plan of
joinder procedure is to adjudicate all rights growing out of a certain factual background.
ACTION – JOINDER, SPLITTING, CONSOLIDATION, AND SEVERANCE –
JOINDER OF CAUSES OF ACTION UNDER CODES AND PRACTICE ACTS –
CLAIMS ARISING OUT OF SAME TRANSACTION OR TRANSACTIONS CON-
NECTED WITH SAME SUBJECT OF ACTION – IN GENERAL

[7] Where a corporation is concerned, the ready distinction between direct and vi-
carious liability is somewhat obscured because we accept the general premise that the
corporation acts through its officers, employees, and other agents. CORPORATIONS
AND BUSINESS ORGANIZATIONS – CORPORATE POWERS AND LIABILITIES
– REPRESENTATION OF CORPORATION BY CORPORATE PRINCIPALS – AP-
PLICATION OF PRINCIPLE OF AGENCY TO CORPORATIONS – CORPORA-
TION ACTS THROUGH OFFICERS OR AGENTS

[8] Under the doctrine of vicarious liability, the corporation, not the employee, is
liable for acts committed by the employee in the course of employment. CORPORA-

TIONS AND BUSINESS ORGANIZATIONS – CORPORATE POWERS AND LIABILITIES – REPRESENTATION OF CORPORATION BY CORPORATE PRINCIPALS – APPLICATION OF PRINCIPLE OF AGENCY TO CORPORATIONS – CORPORATION ACTS THROUGH OFFICERS OR AGENTS

[9] The corporation, as principal, assumes the risk of individual agents' negligence under the theory of vicarious liability. PERSONS LIABLE – VICARIOUS LIABILITY

[10] The additional defendant is liable to the joining party on any cause of action asserted by the joining party which arises out of the same transaction or occurrence or series of transactions or occurrences upon which the plaintiff's cause of action is based. PARTIES – NEW PARTIES AND CHANGE OF PARTIES – BRINGING IN NEW PARTIES – NECESSITY AND GROUNDS – PERSONS WHO MAY BE BROUGHT IN, AND GROUNDS IN GENERAL

[11] So long as the additional defendant's alleged liability is related to the original claim which plaintiff asserts against the original defendant, the third party complaint is within bounds. PARTIES – NEW PARTIES AND CHANGE OF PARTIES – BRINGING IN NEW PARTIES – NECESSITY AND GROUNDS – PERSONS WHO MAY BE BROUGHT IN, AND GROUNDS IN GENERAL

[12] The right of indemnity rests upon a difference between the primary and the secondary liability of two persons each of whom is made responsible by the law to an injured party. It is a right which enures to a person who, without active fault on his own part, has been compelled, by reason of some legal obligation, to pay damages occasioned by the initial negligence of another, and for which he himself is only secondarily liable. The difference between primary and secondary liability is not based on a difference in degrees of negligence or on any doctrine of comparative negligence, -a doctrine which, indeed, is not recognized by the common law...it is clear that the right of a person vicariously or secondarily liable for a tort to recover from one primarily liable has been universally recognized. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – RIGHT OF ONE COMPELLED TO PAY AGAINST PERSON PRIMARILY LIABLE – SECONDARY LIABILITY

[13] Indemnity is a fault shifting mechanism, operable only when a defendant who has been held liable to a plaintiff solely by operation of law, seeks to recover his loss from a defendant who was actually responsible for the accident which occasioned the loss. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – COMMON LAW INDEMNIFICATION

[14] Indemnity is only available from those who are primarily liable to those who are merely secondarily or vicariously liable. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – RIGHT OF ONE COMPELLED TO PAY AGAINST PERSON PRIMARILY LIABLE – SECONDARY LIABILITY

[15] Whether an owner of property may be primarily, or ultimately, responsible for injuries occurring on that property is not the proper inquiry. Rather a court must look to whether the party seeking indemnity had *any part* in causing the injury. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – PARTICULAR CASES AND ISSUES

[16] When there is a failure to report changes in a patient's condition and/or to question a physician's order which is not in accord with standard medical practice and the patient is injured as a result, the hospital will be liable for such negligence. HEALTH – MALPRACTICE, NEGLIGENCE, OR BREACH OF DUTY – PERSONS

LIABLE – HOSPITALS OR CLINICS – IN GENERAL

[17] Where the status of the party to be joined is not secondary “vis-à-vis” the joining party, joinder is not prohibited. PARTIES – DEFENDANTS – JOINDER – PERSONS WHO MAY BE JOINED

[18] Indemnity is a common law equitable remedy that is aimed at preventing an unjust result. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – IN GENERAL

[19] Victims may not, by the timing of their complaint, choose which tortfeasor will pay, and defendants faced with the frequent occurrence of eleventh-hour lawsuits may still pursue their rightful equitable remedies against other tortfeasors. INDEMNITY – INDEMNIFICATION BY OPERATION OF LAW – RIGHT OF ONE COMPELLED TO PAY AGAINST PERSON PRIMARILY LIABLE

[20] Indemnity is dependent upon a difference in the character or kind of the wrongs which cause the injury and in the nature of the legal obligation owed by each of the wrongdoers to the injured person. INDEMNITY – INDEMNIFICATION BY OPERATIONS OF LAW – IN GENERAL

[21] Controlling questions of law as to which there is a substantial ground for difference is a basis for interlocutory appeal by permission. INTERLOCUTORY APPEAL – PERMISSION

[22] Issues of agency and control exercised by joint employers require consideration by a jury in the setting of a medical negligence action. LABOR AND EMPLOYMENT – IN GENERAL – QUESTIONS OF LAW AND FACT AS TO EMPLOYMENT STATUS

[23] Co-employers are like joint tortfeasors, jointly and severally liable to plaintiff to the extent of the employee's liability. It logically and sensibly follows that they are, also like joint tortfeasors, subject to the rights and liabilities of contribution inter se. CONTRIBUTION – PAYMENT OR DISCHARGE OF COMMON LIABILITY

[24] Joint tortfeasors are parties who either act together in committing a wrong or whose acts, if independent of each other, unite to form a single injury. TORTS – IN GENERAL – PERSONS LIABLE – JOINT TORTFEASORS IN GENERAL

[25] Joint tortfeasors exist where two or more persons owe to any other the same duty and by their common neglect, such other is injured. TORTS – IN GENERAL – PERSONS LIABLE – JOINT TORTFEASORS IN GENERAL

[26] An agent and its principal are not joint tortfeasors under UCATA when the liability of the principal is vicarious liability and is not based upon the principal's independent actionable fault. CONTRIBUTION – COMMON INTEREST OR LIABILITY – JOINT WRONGDOERS – PERSONS NOT IN PARI DELICTO; ACTIVE AND PASSIVE WRONGDOERS

[27] The statutory language of UCATA does not limit the right of contribution to tortfeasors who have been guilty of negligence. Contribution is available whenever two [or] more persons are jointly or severally liable in tort, irrespective of the theory by which tort liability is imposed. CONTRIBUTION – COMMON INTEREST OR LIABILITY – JOINT WRONGDOERS – PARTICULAR TORTS OR WRONGDOERS

[28] It is the indivisibility of the injury, rather than of culpability, that triggers joint liability. TORTS – IN GENERAL – PERSONS LIABLE – JOINT AND SEVERAL LIABILITY

[29] A tortfeasor's right to receive contribution from a joint tortfeasor derives not from his liability to the claimant but rather from the equitable principle that once the joint liability of several tortfeasors has been determined, it would be unfair to impose the financial burden of the plaintiff's loss on one tortfeasor to the exclusion of the other. CONTRIBUTION – COMMON INTEREST OR LIABILITY – JOINT WRONGDOERS – IN GENERAL

[30] Contribution is available whenever two or more persons are jointly or severally liable in tort, irrespective of the theory by which tort liability is imposed. CONTRIBUTION – COMMON INTEREST OR LIABILITY – JOINT WRONGDOERS – IN GENERAL

[31] The purpose of the interlocutory procedure rule to secure immediate appellate review is not designed to encourage or authorize the wholesale appeal of difficult issues when appellate review would be better served by having all issues that are raised in a trial initially reviewed by the trial court and then subject to one review if necessary. APPEAL AND ERROR – DECISIONS REVIEWABLE – FINALITY OF DETERMINATION – INTERLOCUTORY AND INTERMEDIATE DECISIONS – IN GENERAL

**IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION
2015-3223**

ALYSSA McLAUGHLIN and WILLIAM H. McLAUGHLIN, PLAINTIFFS,
V.

AMIT NAHATA, M.D.; KATHRYN SIMONS, M.D.; ANNE F. JOSIAH, M.D.;
THOMAS PIROSKO, D.O.; JESSIE GANJOO, M.D.; ASHLEY BERKLEY,
D.O.; THE WASHINGTON HOSPITAL; And WASHINGTON HEALTH SYSTEM
WASHINGTON HOSPITAL, DEFENDANTS,

V.
DIALYSIS CLINIC, INC., ADDITIONAL DEFENDANT.

MEMORANDUM AND ORDER

Both parties view this trial court's February 5, 2020 ruling to be flawed. The questioned order permits the Washington Hospital (TWH) to proceed to trial in its effort to obtain contribution or indemnity from Dialysis Clinic, Inc. (DCI), with regard to a total verdict of \$17,263,159.33. TWH is the ostensible employer and DCI is an actual employer of Dr. Jessie Ganjoo and Dr. Amit Nahata. These physicians were found to be at fault for causing catastrophic harm to the Plaintiffs, Alyssa McLaughlin, and her husband, William McLaughlin. (See Non Jury Verdict 10/11/19)

TWH now seeks reconsideration of its motion requesting that summary judgment be entered in its favor. DCI seeks to amend this trial court's order to permit interlocutory review. To understand how the parties and this trial court have reached this conundrum, a review of certain key procedural events may prove helpful.

On September 23, 2015, the Plaintiffs commenced this action against Drs. Nahata and Ganjoo, TWH, and several other physicians. DCI was not named as an original defendant. On September 6, 2016, Dr. Ashley Berkley filed a Complaint to Join

DCI, as the employer of Drs. Ganjoo and Nahata.¹ In response, DCI denied that it employed Drs. Ganjoo and Nahata and that they were acting within the course and scope of their employment with DCI when treating Mrs. McLaughlin.²

After some period of discovery, DCI began a series of efforts to gain dispositive relief and avoid trial. The Hon. Damon Faldowski denied DCI's first motion for summary judgment. (See Order of August 11, 2017) Judge Faldowski cited the "longstanding principle" that an employer may be liable for the tortious acts of his employee when the employee is acting within the course and scope of his employment. In denying reconsideration of that decision, Judge Faldowski wrote:

"It is clear from the record that Defendants Amit Nahata, M.D. and Jessie Ganjoo, M.D. are employees of Additional Defendant, therefore this Court denied Additional Defendant's Motion for Summary Judgment."

(See Opinion and Order 9/1/17) (Emphasis Added).

Following this ruling, TWH filed an Amended Crossclaim on April 13, 2018.³ Being filed after a further period of discovery directed to DCI, TWH's Crossclaim more specifically pleaded DCI's relationship with Drs. Ganjoo and Nahata.⁴ DCI filed preliminary objections seeking to dismiss TWH's crossclaim, which this trial court overruled. This court explained that the McLaughlin's cause of action was distinct from the contribution and indemnity claims asserted by TWH. This Court added that because no settlement or judgment had taken place, the statute of limitations could not have expired as to TWH's claims against DCI. (See Mem and Order 11/27/18). DCI then filed its Answer, admitting that it executed employment agreements with Drs. Ganjoo and Nahata but denying that it employed those physicians at times material to this action.⁵

[1] On August 16, 2019, this court denied DCI's second motion for summary judgment. (See Order dated 8/16/19 and filed August 27, 2019) In denying DCI's Second Motion for Summary Judgment this court again rejected DCI's claims that the statute of limitations had expired with regard to TWH's indemnity and contribution claims. In doing so, this trial court cited Oviatt v. Automated Entrance Sys. Co., Inc., 400 Pa.Super. 493, 502, 583 A.2d 1223, 1228 (1990) which directs that the "right to contribution is distinct from the underlying tort action." Id. (citations omitted)

Also on August 16, 2019, DCI sought to have the trial bifurcated. DCI argued that "no party should be permitted to introduce evidence of actual agency or the employment of Drs. Ganjoo and Nahata by DCI."⁶ Further, DCI requested that this trial court preclude evidence, argument or proof with respect to all claims for contribution or indemnity against DCI.⁷ The probability of juror confusion and speculation regarding the "pink elephant" that DCI would present in a common proceeding where jurors would not be told of claims against DCI or its relationship to Drs. Ganjoo and Nahata, was real. This trial court directed separate trials and severed Dr. Berkley and TWH's claims against DCI.⁸

The McLaughlins and several of the individual original defendants, to include Dr. Berkley, then agreed to settlements. The McLaughlins, TWH, Drs. Ganjoo and Nahata then consented to the discontinuance of claims against Dr. Berkley, and the other individually named physicians. Because DCI had been granted a separate trial and had not raised any claims against the settling original defendants, its objection to this

discontinuance was overruled. (See Mem. and Order 9/10/19)

The McLaughlins, TWH, Drs. Ganjoo and Nahata agreed to try their dispute non-jury and to submit reports in lieu of live expert testimony. DCI did not agree to a non-jury consideration of TWH's crossclaims. The claims of the McLaughlins and the crossclaims of TWH remained severed.

[2] This trial court viewed a separate trial of crossclaims against DCI as a means to protect the Plaintiffs' procedural due process rights. Due process not only requires an opportunity to be heard, but also that the opportunity is provided **"at a meaningful time and in a meaningful manner."** Mathews v. Eldridge, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Smith v. City of Philadelphia, 147 A.3d 25, 32 (Pa.Cmwlth. 2016) The pre-trial litigation of this medical negligence action was unique. The parties did not vigorously dispute the efficacy of the Plaintiffs' claims. Instead, pre-trial litigation was dominated by recurring battles between TWH and DCI regarding the sufficiency of crossclaims pleaded, discovery of related insurance matters and DCI's potential liability for indemnity and contribution. Meanwhile, the Plaintiffs' "day in court" was delayed while they continued to endure ongoing harm and economic loss due to the catastrophic injury Mrs. McLaughlin sustained.

On October 11, 2019, following a September non-jury trial and extended consideration thereafter of the evidence presented, this trial court issued a Memorandum and Order that included 92 separate findings of fact and a non-jury verdict. (See Mem. and Order 10/11/19) This trial court determined that Dr. Nahata was 75% causally negligent and Dr. Ganjoo was 25% so. This trial court accepted the parties stipulated findings that both Dr. Ganjoo and Dr. Nahata were not employees but ostensible agents of TWH. This trial court entered a verdict against Dr. Ganjoo, Dr. Nahata and TWH, in a total amount of \$15,054,950. (See Verdict Slip 10/11/19) On November 13, 2019, in an unopposed motion for delay damages, \$2,208,209.33 was added to the verdict for Mrs. McLaughlin. (See Order 11/13/19)

Following the non-jury verdict, both DCI and TWH presented post-trial motions regarding this court's non-jury decision. DCI filed a "Motion for New Trial as to liability only," which TWH opposed and this trial court denied. (See Order of 1/29/20) TWH presented a post-trial motion to mold the verdict to include a verdict on indemnity claims against Dr. Nahata and Dr. Ganjoo. Such relief was granted without opposition from Drs. Ganjoo and Nahata. (See Order 1/30/20)

Meanwhile, TWH's contribution and indemnity claims against DCI remained scheduled for trial to commence on February 10, 2020. (See Order of 11/1/19) However, within a month of jury selection, TWH filed a motion for summary judgment on its crossclaims against DCI. TWH argued that through no fault of its own it has been required to pay liabilities of DCI's employees, Drs. Ganjoo and Nahata.⁹ DCI responded by filing multiple supplemental pre-trial statements and its third motion for summary judgment.¹⁰ DCI argued that TWH released its claims, could not prove its right to indemnity and was demanding an equitable remedy with unclean hands.

On February 5, 2020, this trial court issued a written decision denying these competing motions for summary judgment. (See Mem. and Order 2/5/20) This trial court pointed to DCI's Fifth Supplemental Pre-Trial Statement, filed within three weeks of the February Trial Date. In that filing for the first time, DCI identified its expert witnesses with regard to TWH's direct liability. (See Mem. and Order 2/5/20, p. 10 and n.

10) This trial court ruled that such evidence could show TWH's active fault and defeat its indemnity claim. Further, the issue of control over Drs. Ganjoo and Nahata remained a jury question. The possibility existed that both TWH and DCI could be determined to have jointly controlled these physicians while they rendered substandard care to Mrs. McLaughlin. This trial court ruled, that in such a circumstance, TWH may seek contribution from DCI. (See Mem. and Order 2/5/20, p. 11)

Following this decision, both TWH and DCI found this trial court's decision unsatisfactory and erroneous. TWH requested reconsideration and argued that: i) DCI's expert reports are inadequate to establish TWH's corporate negligence; ii) DCI's claims of TWH's active fault are dilatory and prejudicial; and iii) that no party has alleged that TWH has "defacto" or "captain of the ship" responsibility for Drs. Ganjoo and Nahata.¹¹ In turn, DCI filed its Application for this trial court to amend its order so as to permit interlocutory review. In part, DCI contends that this trial court "incorrectly held that a vicariously liable party can pass its liability to another vicariously liable party through indemnity or contribution."¹² Also, DCI asks for review on two issues that have not been fully and directly addressed, by this trial court. Those issues involve the admissibility of evidence "against all tortfeasors" and apportionment. Id.

INDEMNITY AND CONTRIBUTION

At the core of TWH's motion for reconsideration and DCI's Application for Amendment, is one "fighting issue." Simply, *is a trial necessary?*

TWH maintains that its right to indemnity is clear and the record reveals no evidence of its control over Drs. Ganjoo and Nahata. TWH argues that it does not have "captain of the ship" liability for Drs. Ganjoo and Nahata because no evidence exists to show that TWH "controlled, limited or directed" those physicians in their treatment of Mrs. McLaughlin.¹³ TWH complains that DCI's recent disclosure of its experts is too late, too prejudicial and too insufficient to support a claim of TWH's active fault based upon a corporate negligence theory. TWH contends that no material issue of fact exists regarding DCI's vicarious liability for the negligence of Drs. Ganjoo and Nahata. TWH argues that its crossclaim for indemnity based upon a *respondeat superior* theory is actionable, clear and free from doubt.

[3] DCI disagrees. It contends that indemnity between secondarily liable parties is an unexplored frontier to which no Pennsylvania Court has boldly ventured before. DCI argues that TWH may not pursue a contribution claim because "a vicariously liable party may not seek or give contribution under the law as written."¹⁴ DCI points to well established appellate authority that an agent may not seek contribution or indemnity from its principal. See Mamalis v. Atlas Van Lines, Inc., 522 Pa. 214, 216, 560 A.2d 1380, 1381 (1989) and Builders Supply Company v. McCabe, 366 Pa. 322, 77 A.2d 368, 369-70 (1951). DCI concedes that common pleas level authority exists for the principle that one secondarily liable employer may seek contribution from another "co-employer." See Sleasman v. Brooks, 32 Pa. D. & C.3d 187, 194-95 (Pa. Com. Pl. 1984).

[4] Both TWH and DCI have employed the age old trial lawyer's advice that *"If you have the facts on your side, hammer the facts. If you have the law on your side, hammer the law. If you have neither the facts nor the law, hammer the table."* TWH has emphasized the facts, DCI has latched onto the law, and both have done their share of pounding the table.

Novel issues appear to be present. The factual record favors TWH, the law lacks full and clear development on the claims raised against DCI, and trial is a certainty unless appellate authority springs forward to give the parties and this trial court clear direction.

[5] As a starting point, this trial court has tried to observe the cautionary direction best articulated by Chief Justice Saylor that, particularly in medical malpractice litigation, “the axiom that decisions are to be read against their facts...prevents the wooden application of abstract principles to circumstances in which different considerations may pertain.” *Maloney v. Valley Med. Facilities, Inc.*, 603 Pa. 399, 411, 984 A.2d 478, 485–86 (2009). As to TWH’s indemnity and contribution claims, both parties invite this trial court to apply abstract principles to a circumstance where different considerations may pertain.

[6] TWH’s indemnity claim is premised on its right to pursue a crossclaim that is not *completely limited* by the McLaughlins’ decisions regarding whom to sue. As the Superior Court has explained:

The applicable rules of court, including former Rule 2252(d) and Rule 1031.1, were formulated for the express purpose of “bringing together into a single law suit causes of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the plaintiff’s cause of action is based.” *Free v. Lebowitz*, 463 Pa. 387, 344 A.2d 886, 888 (1975). Indeed, “[t]he general plan of joinder procedure is to adjudicate **all rights growing out of a certain factual background.**” *Id.*

Rettger v. UPMC Shadyside, 991 A.2d 915, 928 (Pa. Super. 2010) (Emphasis Added).

The factual background of this case includes substantial unrebutted evidence that Drs. Ganjoo and Nahata were DCI’s employees when they breached professional standards of care to Mrs. McLaughlin and caused her catastrophic harm. At the non-jury trial, Drs. Ganjoo and Nahata both provided sworn testimony that they were not employees of TWH and received no compensation from TWH. (See Mem. and Order 10/11/19 ¶ 88)¹⁵ Deposition testimony and documents produced in discovery well establish that during June of 2013 when Mrs. McLaughlin sought their care, Drs. Ganjoo and Nahata were employed by DCI and had staff privileges at TWH.¹⁶ Drs. Ganjoo and Nahata have stipulated that:

At all times that internal medicine and nephrology physicians Amit Nahata, M.D., and Jessie Ganjoo, M.D. rendered care or treatment to Alyssa McLaughlin, Amit Nahata, M.D. and Jessie Ganjoo were employed by DCI, acting in a manner consistent with the business operations of DCI and in furtherance of the business objectives of DCI.¹⁷

DCI has not produced evidence to the contrary. Out of these facts and the events surrounding the care given and directed by Drs. Ganjoo and Nahata, TWH raises a claim of vicarious liability against DCI.

[7][8][9] The abstract principles supporting such a claim are well established. The Supreme Court has stated:

“Where a corporation is concerned, the ready distinction between **direct and vicarious liability is somewhat obscured** because we accept the general premise that the corporation acts through its officers, employees, and other agents.”

See Tayar v. Camelback Ski Corp., Inc., 47 A.3d 1190, 1196 (Pa.2012) (Emphasis Added). The Court has added that “under the doctrine of vicarious liability, the corporation, not the employee, is liable for acts committed by the employee in the course of employment.” See Travelers Cas. & Sur. Co. v. Castegnaro, 565 Pa. 246, 252, 772 A.2d 456, 460 (2001) (concluding a principal is liable for the negligent acts and torts of its agents, as long as those acts occurred within the agent's scope of employment) as cited in Tayar. In other words, the Supreme Court has declared “[t]he corporation, as principal, assumes the risk of individual agents' negligence under the theory of vicarious liability.” See, e.g., Iandiorio v. Kriss & Senko Enters., Inc., 512 Pa. 392, 517 A.2d 530 (1986); Aiello v. Ed Saxe Real Estate, Inc., 508 Pa. 553, 499 A.2d 282 (1985) “In this scenario, the corporation's liability is derivative of the agents' breach of their duties of care to the plaintiff.” Scampone v. Highland Park Care Ctr., LLC, 618 Pa. 363, 389, 57 A.3d 582, 597-98 (2012).

[10][11] For these reasons, neither applicable Supreme Court authority nor Pa.R.C.P. 1031.1¹⁸ appear to limit an original defendant's longstanding right to pursue a claim based on the principles of respondeat superior against an additional defendant. As the Superior Court explained over three decades ago:

... the additional defendant is liable to the joining party on **any cause of action asserted by the joining party** which arises out of the same transaction or occurrence or series of transactions or occurrences upon which the plaintiff's cause of action is based.

Svetz for Svetz v. Land Tool Co., 355 Pa.Super. 230, 234, 513 A.2d 403, 405 (1986). “So long as the additional defendant's alleged liability is related to the original claim which plaintiff asserts against the original defendant, the third party complaint is within bounds.” Incollingo v. Ewing, 444 Pa. 263, 290, 282 A.2d 206, 221 (1971).

In the face of un rebutted evidence regarding Drs. Ganjoo and Nahata's employment status and well-established precedent supporting TWH's right to assert cross-claims that arise out transactions or occurrences upon which the McLaughlins' cause of action is based, DCI maintains it owes no liability to TWH. DCI cites directly to equally well-established principles limiting the right to seek indemnity and contribution. DCI points to the lack of case authority directing that one secondarily liable party may seek indemnity or contribution from another potentially secondarily liable party.

[12] With regard to indemnity, the abstract principle that a primarily liable party may not seek indemnity from a secondarily liable party is settled law. Regarding indemnity, the Supreme Court has stated:

the right of *indemnity* rests upon a difference between the primary and the secondary liability of two persons each of whom is made responsible by the law to an injured party. **It is a right which enures to a person who, without active fault on his own part, has been compelled, by reason of some legal obligation, to pay damages occasioned by the initial negligence of another, and for which he himself is only**

secondarily liable. The difference between primary and secondary liability is not based on a difference in *degrees* of negligence or on any doctrine of *comparative negligence*, -a doctrine which, indeed, is not recognized by the common law...it is clear that the right of a person vicariously or secondarily liable for a tort to recover from one primarily liable has been universally recognized

Builders Supply Co. v. McCabe, 366 Pa. 322, 325-327, 77 A.2d 368, 370-372 (1951).¹⁹

[13][14] In cases applying these abstract principles, courts have commented on the extent of indemnity liability. For instance, the Supreme Court has described common law indemnity as being:

...a fault shifting mechanism, **operable only** when a defendant who has been held liable to a plaintiff solely by operation of law, seeks to recover his loss from a defendant who was **actually responsible** for the accident which occasioned the loss.

Sirianni v. Nugent Bros., Inc., 509 Pa. 564, 571, 506 A.2d 868, 871 (1986) (Emphasis Added). Similarly, the Superior Court has commented "... indemnity is **only available** from those who are primarily liable to those who are merely secondarily or vicariously liable." Burch v. Sears, Roebuck & Co., 320 Pa.Super. 444, 457-58, 467 A.2d 615, 622 (1983) (Emphasis Added). These statements appear to foreclose TWH's right to seek indemnity from DCI on a theory of respondeat superior.

However, the facts of these cases did not involve a secondarily liable party's indemnity claim brought against the employer of a primarily liable party. In Burch, the Superior Court concluded a jury verdict finding that a manufacturer, a primarily liable party that created a dangerous product (lawn mower), owed indemnity to a retailer who was "only secondarily liable." Burch, 467 A.2d at 624. In Builders Supply, the Supreme Court rejected the third party plaintiff's claim for indemnity because of binding proof of the third party plaintiff's active fault. The Court stated:

It being clear, then, that plaintiff's own negligence as a contributing factor in the accident is established by the record in the Ohio case, and since therefore it cannot recover indemnity from defendant on any theory of primary and secondary liability or of comparative degrees of negligence

Builders Supply, 366 Pa. at 335, 77 A.2d at 374.

[15] Similarly, in Sirianni, the City of Philadelphia, which had been determined to be 25% causally negligent, sought indemnification against a homeowner. As the Supreme Court explained:

The City now seeks to argue that despite the facts that they negligently chose a contractor, and negligently permitted that same contractor to proceed without supervision, that somehow the primary liability for this tragedy should rest with the owner of the premises who, though he did allow the premises to deteriorate, had no part in choosing the catalyst who transformed this "accident waiting to happen" into a catastrophe.

Sirianni v. Nugent Bros., Inc., 509 Pa. 564, 568–69, 506 A.2d 868, 870 (1986). The Supreme Court then rejected the City’s argument that “the right to indemnity should depend upon whether one bears the “primary responsibility” for a hazard. Instead, a court must focus its inquiry on whether the party seeking indemnity had active fault in causing the injury. Justice McDermott wrote:

Whether an owner of property may be primarily, or ultimately, responsible for injuries occurring on that property is not the proper inquiry. Rather a court must look to whether the party seeking indemnity **had any part** in causing the injury.

Sirianni v. Nugent Bros., Inc., 509 Pa. 564, 571, 506 A.2d 868, 871 (1986) (Emphasis added).

Reading Builders Supply, Burch, and Sirianni against their facts does not appear to foreclose TWH’s right to pursue indemnity from DCI. The parties dispute TWH’s active fault. Only by viewing the evidence in a *light most favorable to DCI*, the non-moving party, may one conclude that TWH, itself was negligent. DCI’s experts have suggested that the global failure of TWH staff to monitor changes in Mrs. McLaughlin’s condition resulted in her permanent neurological deficits.²⁰

[16] “When there is a failure to report changes in a patient's condition and/or to question a physician's order which is not in accord with standard medical practice and the patient is injured as a result, the hospital will be liable for such negligence.” Thompson v. Nason Hosp., 527 Pa. 330, 342–43, 591 A.2d 703, 709 (1991) holding that such evidence presents *a sufficient question of material fact that a hospital is negligent* in supervising the quality of the medical care.

[17] Thus, TWH’s status as to DCI is not presently that of a primarily liable party seeking indemnity from one who is secondarily liable. Where the status of the party to be joined is not **secondary “vis-à-vis” the joining party, joinder is not prohibited**. Eckrich v. DiNardo, 283 Pa.Super. 84, 89, 423 A.2d 727, 729 (1980).²¹ Because an issue of active fault is genuinely in dispute and a determination of primary liability has not been made, summary judgment is not appropriate for either TWH or DCI.

[18] Further, DCI’s application of Builders Supply, Burch, and Sirianni, appears unprecedented and does not necessarily square with the purposes of indemnity. Indemnity is a common law equitable remedy that is aimed at preventing an unjust result. See City of Wilkes-Barre v. Kaminski Bros., 804 A.2d 89, 92 (Pa. Cmwlth. 2002) and Burch, 467 A.2d at 622 quoting W. Prosser, *Law of Torts* 313 (4th ed. 1971). In this instance, if the McLaughlins had included DCI as an original defendant in this action, the right to proceed to trial against DCI would be clear. Because the McLaughlins failed to do so in an action they filed two years after the offending incidents of malpractice, DCI has no sole liability to the McLaughlins.

[19] However, DCI’s lack of sole liability to the McLaughlins does not preclude TWH’s right to pursue its equitable remedies. As the Superior Court in Burch explained:

These remedies between defendants are available even against defendants whom the plaintiff does not sue, and their statute of limitations

does not commence at the time of the plaintiff's injury. *Wnek v. Boyle*, 374 Pa. 27, 96 A.2d 857 (1953). **Thus, victims may not, by the timing of their complaint, choose which tortfeasor will pay, and defendants faced with the frequent occurrence of eleventh-hour lawsuits may still pursue their rightful equitable remedies against other tortfeasors. *Id.***

Burch v. Sears, Roebuck & Co., 320 Pa.Super. 444, 457, 467 A.2d 615, 622 (1983) (Emphasis added). The combination of the McLaughlins' choice of defendants and the mechanical application of statutory ostensible agency principles should not compel TWH to pay for liabilities DCI employees created while acting within the course and scope of their employment. Denying TWH its "day in court" appears inequitable and unjust.

[20] Within the *Builders Supply* opinion, itself, one finds support for TWH's right to seek indemnity from DCI. The Court described indemnity as being dependent upon "a difference in the *character or kind* of the wrongs which cause the injury and in the nature of the legal obligation owed by each of the wrongdoers to the injured person." *Builders Supply*, 366 Pa. at 326, 77 A.2d at 370. The Court then gave a series of examples where indemnity exists to include the factual circumstances set forth in *Philadelphia Co. v. Cent. Traction Co.*, 165 Pa. 456, 463, 30 A. 934, 936 (1895). The Court explained:

Many other illustrations might, of course, be given, as, for example, where a person injured by the leakage of gas from a defective pipe recovered damages from the gas company which maintained the pipe, **the gas company was held entitled to recover indemnity from a street railway company whose negligent excavation in the street had caused the pipe to break.** *Philadelphia Company v. Central Traction Co.*, 165 Pa. 456, 30 A. 934.

Builders Supply Co., 366 Pa. 326, 77 A.2d 370–71. In *Philadelphia Company v. Central Traction Co.*, the offending acts of the street railway company were committed by its "workmen" who "filled in under and around it the earth which they had taken out." *Philadelphia Company v. Central Traction Co.*, *supra*. Thus, longstanding precedent appears to support one corporate entity seeking indemnification against another corporate entity whose employees have been negligent.

That said, the language, used by the courts in *Builders Supply*, *Burch*, and *Siranni*, to define the limits of indemnity has been echoed by more than one state and federal court in Pennsylvania. See *Kaminski Bros., Inc.*, 804 A.2d at 92; *Bachtell v. Gen. Mills, Inc.*, 422 F.Supp.3d 900, 907–09 (M.D. Pa. 2019) and *Kemper Nat'l P & C Companies v. Smith*, 419 Pa.Super. 295, 300, 615 A.2d 372, 375 (1992).

[21] Unfortunately, as to professional medical negligence, the parties have not cited to and this trial court, independently, has not discovered an appellate court opinion that holds that a secondarily liable party *may or may not* seek indemnity from the actual employer of a negligent employee. For this reason, TWH's right to seek indemnity involves a controlling question of law as to which there is substantial ground for difference of opinion.

The Judicial Code at 42 Pa.C.S.A. § 702 provides:

b) **Interlocutory appeals by permission.**--When a court or other government unit, in making an interlocutory order in a matter in which its final order would be within the jurisdiction of an appellate court, shall be of the opinion that such order **involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter**, it shall so state in such order. The appellate court may thereupon, in its discretion, permit an appeal to be taken from such interlocutory order.

Id.

Interlocutory review of TWH's right to seek indemnity against DCI may materially advance the ultimate termination of this matter. In seeking reconsideration of this trial courts' February 5, 2020 decision, TWH stated:

The award of judgment as a matter of law in favor of TWH and against DCI will afford DCI immediate access to the appellate courts for review of the issue upon which DCI has based its defense for the five years prior to January 21, 2020...**Should DCI prevail on appeal, and the Pennsylvania appellate courts decide that DCI cannot be vicariously liable for the indemnity obligations of Drs. Nahata and Ganjoo, there will be no trial.** Alternatively, a ruling by the appellate courts affirming this Honorable Court's findings that DCI can be legally responsible for the indemnity obligations of their employed physicians, DCI will be obligated to pay a judgment or make reasoned decisions on a cost benefit analysis of whether perpetual litigation is in the best interest of DCI under the weight of a significant judgment.

(TWH Brief in Support 2/21/20, p. 15-16) (Emphasis Added)

[22] Additionally, a substantial ground for a difference of opinion exists concerning TWH's right to seek contribution from DCI. In this case, Drs. Ganjoo and Nahata are undeniably the ostensible agents of TWH and the actual employees of DCI. (See Verdict 10/11/19, Opinion and Order 9/1/17) Recognizing that issues of agency and control exercised by joint employers require consideration by a jury in the setting of a medical negligence action, this trial court denied summary judgment. See Kissell v. Motor Age Transit Lines, 357 Pa. 204, 209, 53 A.2d 593, 595-96 (1947) and Tonsic v. Wagner, 458 Pa. 246, 253-54, 329 A.2d 497, 501 (1974) and (See Mem and Order 2/5/20, p. 7-11) Specifically, this trial court ruled that TWH possessed a right of contribution against DCI, because each could be vicariously liable for the fault of Drs. Ganjoo and Nahata. With regard to TWH's contribution claim, this trial court applied the holding in Sleasman v. Brooks, 32 Pa. D. & C.3d 187, 194-95 (Pa. Com. Pl. 1984). No Pennsylvania Appellate Court has addressed Sleasman.

[23] Sleasman rests on the conclusion that two vicariously liable parties are effectively "joint tortfeasors." Co-employers are "...like joint tortfeasors, jointly and severally liable to plaintiff to the extent of the employee's liability...It logically and sensibly follows that they are, also like joint tortfeasors, subject to the rights and liabilities of contribution inter se." Sleasman, 32 Pa. D. & C.3d 187, 194-95.

[24][25][26] Sleasman's holding and this trial court's application of it, may appear to be at odds with Pennsylvania appellate decisions that define the term "joint tortfeasor" differently. For instance, "[j]oint tortfeasors are parties who either act together in committing a wrong or whose acts, if independent of each other, unite to form a single injury." L.B. Foster Co. v. Charles Caracciolo Steel & Metal Yard, Inc., 777 A.2d 1090, 1095 (Pa. Super. 2001). Joint tortfeasors exist where two or more persons owe to any other the same duty **and by their common neglect**, such other is injured." LaZar v. RUR Indus., Inc., 337 Pa.Super. 445, 450, 487 A.2d 29, 32 (1985) and see Crowell v. City of Philadelphia, 531 Pa. 400, 407–08, 613 A.2d 1178, 1181 (1992) "Joint tortfeasor liability ... arises when two or more persons **acting together** injure another. It is distinguished from vicarious liability in that liability attaches by virtue of the actions of each person as opposed to by operation of law. See Prosser and Keeton, *supra* § 52, p. 346." The Supreme Court has also held "...that an agent and its principal are not joint tortfeasors under UCATA when the liability of the principal is vicarious liability and is **not based upon the principal's independent actionable fault.**" Mamalis v. Atlas Van Lines, Inc., 522 Pa. 214, 216, 560 A.2d 1380, 1381 (1989) (Emphasis Added)

However, in the complex setting of this protracted medical negligence case, relying on targeted precedent such as Mamalis, is not appropriate. As the Supreme Court later held Mamalis "was directed to a simple fact pattern *involving a single principal*, a single agent, a single event..." Maloney, *supra*. 964 A.2d at 485. Such is not the facts of this dispute between TWH and DCI.

[27] [28] Critically, other authority exists that appears to support the Sleasman view that two co-employers can be joint tortfeasors who may possess rights of contribution. In at least three published opinions, the Superior Court has repeated:

Likewise, the UCATA (42 Pa.C.S.A. § 8321 *et seq.*) "is not geared only toward negligence situations." McMeekin, 530 A.2d at 465 (Pa. Super. 1987). Rather, as this Court explained: [Under the UCATA, "joint tortfeasors"] are defined as 'two or more persons jointly or severally liable in tort for the same injury to persons or property.' ... **The statutory language does not limit the right of contribution to tortfeasors who have been guilty of negligence. Contribution is available whenever two [or] more persons are jointly or severally liable in tort, irrespective of the theory by which tort liability is imposed.**

Straw v. Fair, 2018 PA Super 125, 187 A.3d 966, 1002 (Pa. Super. Ct. 2018), reargument denied (July 18, 2018), appeal denied, 202 A.3d 49 (Pa. 2019), and appeal denied, 202 A.3d 50 (Pa. 2019), and appeal denied, 202 A.3d 51 (Pa. 2019) (Emphasis Added); McMeekin v. Harry M. Stevens, Inc., 365 Pa.Super. 580, 586–87, 530 A.2d 462, 465 (1987) citing Svetz v. Land Tool Co., 355 Pa.Super. 230, 513 A.2d 403 (1986). Vicarious liability is a theory of recovery that may be used to impute negligence. Scampone v. Highland Park Care Center, LLC, 618 Pa. 363, 57 A.3d 582, 597 (2012). Further, the Supreme Court has held:

"[a]lthough joint and several liability requires an indivisible injury for which two or more parties are partially responsible, **it is the indivisibility of the injury, rather than of culpability, that triggers joint liability**"

Carrozza v. Greenbaum, 591 Pa. 196, 916 A.2d 553, 556 (2007) (Emphasis Added). Neither DCI nor TWH has claimed that the tragic consequences the McLaughlins' have suffered and now endure is divisible.

Further, support for the existence of contribution claims like that asserted by TWH against DCI has been recognized for over a half-century. In the **Restatement (Second) of Agency § 317A (1958)** one finds the following passage:

The right to contribution has been less frequently allowed in tort cases. In fact, it was formerly an almost universal rule that contribution should not be permitted between negligent or willful tortfeasors, and the innocent masters in such cases were denied contribution as if they themselves were guilty of the tortious conduct. **However, by statute or by judicial decision this earlier rule is gradually being changed, and, to the extent that tortfeasors are allowed contribution for expenditures made in satisfaction of a common tort claim, a master who has paid an injured person for harm done by his servant can recover from another master equally subject to liability.**

Id. The question of joint liability between DCI and TWH appears to be an open issue to be litigated at trial.

[29][30] The well-recognized purposes behind contribution support this view. The Superior Court has explained:

a tortfeasor's right to receive contribution from a joint tortfeasor **derives not from his liability to the claimant but rather from the equitable principle that once the joint liability of several tortfeasors has been determined, it would be unfair to impose the financial burden of the plaintiff's loss on one tortfeasor to the exclusion of the other.** It matters not on which theory a tortfeasor has been held responsible for the tort committed against the plaintiff. So long as the party seeking contribution has paid in excess of his or her share of liability, it would be inequitable under the Act to deny that party's right to contribution from a second tortfeasor who also contributed to the plaintiff's injury.

Svetz for Svetz v. Land Tool Co., 355 Pa.Super. 230, 238, 513 A.2d 403, 407 (1986) (Emphasis Added). The equitable underpinnings of contribution were not discarded by the enactment of the UCATA.²² The Svetz Court explained:

This equitable consideration is confirmed expressly by the language of the Uniform Act. "Joint tortfeasors" are defined as "two or more persons jointly or severally liable in tort for the same injury to persons or property...." 42 Pa.C.S. § 8322. The statutory language does not limit the right of contribution to tortfeasors who have been guilty of negligence. Contribution is available whenever two or more persons are jointly or severally liable in tort, **irrespective of the theory by which tort liability is imposed.** See: *Smith v. Kolcraft Products, Inc.*, 107 F.R.D. 767, 770 (M.D.Pa.1985) (interpreting Pennsylvania law).

Svetz, 355 Pa.Super. at 238–39, 513 A.2d at 407–08 (Emphasis Added).

From this trial judge's view, the equities of this dispute drive the decision to put TWH's contribution claim to a jury. Neither TWH, an ostensible employer, nor DCI, the actual employer, should be permitted to escape liability without a full and fair hearing. The facts and circumstances surrounding who controlled Drs. Ganjoo and Nahata in their treatment of Mrs. McLaughlin should be determined. Then the financial burden should be apportioned accordingly.

CONCLUSION:

[31] This trial court recognizes that a liberal approach to the application of § 702 has not been sanctioned by the Pennsylvania Superior Court. The Superior Court has cautioned:

The purpose of the interlocutory procedure rule to secure immediate appellate review is not designed to encourage or authorize the wholesale appeal of difficult issues when appellate review would be better served by having all issues that are raised in a trial initially reviewed by the trial court and then subject to one review if necessary.

Kensey v. Kensey, 877 A.2d 1284, 1289 (Pa. Super. Ct. 2005). In keeping with that approach, this trial court will not grant DCI's application as it pertains to issues it raised regarding the admissibility of evidence and apportionment. Those issues have not been fully developed or argued to this trial court. DCI's effort in that regard appears to be a thinly veiled attempt to have the Superior Court step in and take on trial court responsibilities.

Nevertheless, in this case, a substantial ground for a difference of opinion exists on the controlling issue of whether TWH may seek indemnity and or contribution from DCI. If no such rights exist, then trial on these issues is unnecessary. If this trial court is correct, then a trial will be necessary and will require many jurors to be summoned and testimony from numerous healthcare professionals. In the present environment of a Covid 19 pandemic, considerations of avoiding an unnecessary burden on the administration of justice, undue cost to the litigants facing a large monetary liability, the unnecessary risk that large gatherings poses for summoned jurors and the unnecessary disruption in the daily work of the involved healthcare professionals, to include those providing emergency and critical care, also support interlocutory review.

ORDER

AND NOW, this 15th day of July, 2020, for the reasons set forth above, the Washington Hospital's Motion for Reconsideration is DENIED. Further, Dialysis Clinic, Inc.'s Application for Amendment of Interlocutory Order is GRANTED with regard to this court's February 5, 2020 decision denying summary judgment and directing that the Washington Hospital may proceed with claims of contribution and indemnity against Dialysis Clinic, Inc. For the reasons set forth above, such order involves controlling questions of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the matter. DCI's Application seeking to certify issues regarding the admissibility of evidence and apportionment is DENIED.

BY THE COURT
/s/ MICHAEL J. LUCAS, J.

Copies to: T. Chairs, Esq., P. Vey, Esq.

¹ See Joinder Complaint 9/6/16 ¶ 8.

² See DCI Answer, 10/3/16 ¶ 8.

³ Such filing was done with leave of court granted on 4/9/18.

⁴ See TWH Amended Crossclaim ¶ 9-23.

⁵ See DCI Answer 12/17/18 ¶ 9, 11 and 12.

⁶ See DCI Motion in Limine 8/16/19 ¶ 19

⁷ See DCI Motion in Limine 8/16/19 ¶ 21 and 23.

⁸ This trial court's order of August 16, 2019 inaccurately stated that the trial was bifurcated for a separate trial. After DCI's Counsel properly noted that "bifurcation" did not involve a separate proceeding, this trial court corrected that error in an order issued on September 10, 2019. Such correction was done "sua sponte" as permitted by Pa.R.C.P. 213 and 42 PaC.S.A. § 5505 (See Mem. and Order 9/10/19)

⁹ See Motion 1/3/2020.

¹⁰ See DCI Pre-Trial Statements 1/3/20 and 1/24/20 and 3rd MSJ 1/16/20

¹¹ See Motion for Reconsideration 2/21/20.

¹² See DCI Application 3/5/20, p.2.

¹³ TWH Memorandum of Law (2/21/20) p. 7.

¹⁴ DCI Memorandum of Law (3/5/20) p. 10.

¹⁵ Citing (See Ex. W-5, ¶ 2-4, 9-11 and 13)

¹⁶ See TWH Motion for Reconsideration EXS. C,D, E, F, G, H and I.

¹⁷ TWH Motion for Reconsideration 2/21/20 Ex. H ¶ 15.

¹⁸ Pa.R.C.P. No. 1031.1 provides:

Any party may set forth in the answer or reply under the heading "Cross-claim" a cause of action against any other party to the action that the other party may be

(1) solely liable on the underlying cause of action or

Note: The term "underlying cause of action" refers to the cause of action set forth in the plaintiff's complaint or the defendant's counterclaim.

(2) liable to or with the cross-claimant on any cause of action arising out of the transaction or occurrence or series of transactions or occurrences upon which the underlying cause of action is based.

Note: Subparagraph (2) permits a cross-claimant to raise a claim that another party is liable over to the cross-claimant or jointly and severally liable with the cross-claimant. *Id.*

¹⁹ See as cited by DCI in its Application 3/5/20, p. 7.

²⁰ See TWH Memorandum of Law Exs. A and B.

²¹ See Mem. and Order 2/5/20 p. 8 for more discussion.

²² "Uniform Contribution Among Tortfeasors Act" at 42 Pa.C.S.A. § 8321 et. seq.

ESTATE NOTICES

FIRST PUBLICATION

Allabach, Ronald C.

Late of Monongahela
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Neil J. Marcus, Esq.

Attorney: Neil J. Marcus, Esq.,

P. O. Box 652, Monongahela, PA 15063

WCR Vol 101 Issues 1,2,3

Bohnak, Cynthia D.

Late of Borough of Bentleyville
Washington Co., PA
File No. 63-20-0732

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Blake J. Birchmeier, Esq.,

95 W. Beau St., Ste. 600,
Washington, PA 15301

Attorney: Susan M. Key, Esq., Peacock Keller, LLP, 95 W. Beau St., Ste. 600, Washington, PA 15301

WCR Vol 101 Issues 1,2,3

Caffrey, Patricia A.

a/k/a Patricia Ann Caffrey
Late of City of Washington
Washington Co., PA
File No. 63-20-0681

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney,

and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Susan E. Hamlin, 3213 Brookshire Way, Duluth, GA 30096

Attorney: Daniel P. Gustine, Esq., Peacock Keller, LLP, 95 W. Beau St., Ste. 600, Washington, PA 15301

WCR Vol 101 Issues 1,2,3

Comadena, Nancy J.

Late of Monongahela
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Tomilee Gault, 119 Elmcrest Ave., Monongahela, PA 15063

Attorney: Blane A. Black, Esq., 223 Second St., Monongahela, PA 15063

WCR Vol 101 Issues 1,2,3

Crosson, Carol Kay

a/k/a Carol K. Crosson
Late of Washington
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Stefany K. Cotter, 9903 Snowbound Ct., Vienna, VA 22181

Attorney: Bradley M. Bassi, Esq., Bassi, Vreeland & Assoc., P.C., 111 Fallowfield Ave., P.O. Box 144, Charleroi, PA 15022

WCR Vol 101 Issues 1,2,3

Danieli, Mary Louise

a/k/a Mary L. Danieli
Late of McDonald
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Father David Dewitt,
444 St. John St., Pittsburgh, PA 15239
Attorney: Loretta B. Kendall, Esq.,
364 E. Lincoln Ave.,
McDonald, PA 15057

WCR Vol 101 Issues 1,2,3

Exler, Evelyn

Late of Finleyville
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Renee Speicher,
1718 Holly Ln., Pittsburgh, PA 15216
Attorney: Blane A. Black, Esq.,
223 Second St., Monongahela, PA 15063

WCR Vol 101 Issues 1,2,3

Kelly, Amy Kathleen

Late of Burgettstown
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Robert Kelly, 71 Belgium Hollow Rd., McDonald, PA 15057
Attorney: Jessica Roberts, Esq., Neighborhood Attorneys, LLC, 8 E. Pine Ave., Washington, PA 15301

WCR Vol 101 Issues 1,2,3

Leonard, Philomena R.

Late of Washington County
Washington Co., PA
File No. 63-20-0221

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executors or attorney, and all persons indebted to the decedent to make payment to the Executors without delay.

Executors: Kathleen A. Leonard and Janet Wyvratt, 35 Seneca Rd., Pittsburgh, PA 15241
Attorney: Jonathan McCloskey, Esq., US Steel Tower., Ste. 4850,
600 Grant St., Pittsburgh, PA 15219

WCR Vol 101 Issues 1,2,3

Livezey, Shirley

a/k/a Shirley E. Livezey
Late of Canonsburg
Washington Co., PA
File No. 63-20-0546

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Charles F. Eicholtz,
321 E. Broadacre Rd. NE,
Dalton GA 30721

WCR Vol 101 Issues 1,2,3

Reitz, Bradley P.

a/k/a Brad Reitz
a/k/a Bradley Phillip Reitz
Late of Venetia
Washington Co., PA
File No. 63-20-0735

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

dent to make payment to the Executor without delay.

Executor: Jennifer M. Reitz, 206 Oak Ridge Dr., Venetia, PA 15367

Attorney: Templeton Smith, Esq., 615 Washington Rd., Ste. 304, Pittsburgh, PA 15228

WCR Vol 101 Issues 1,2,3

Relosky, Ronald A.

Late of Cecil Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Christine N. Kianka-Relosky, 165 Vista Circle, Canonsburg, PA 15317

Attorney: Jonathan McCloskey, Esq., US Steel Tower, Ste. 4850, 600 Grant St., Pittsburgh, PA 15219

WCR Vol 101 Issues 1,2,3

Wuenstel, Keith L.

a/k/a Keith Lewis Wuenstel
Late of Union Twp.
Washington Co., PA
File No. 63-20-0689

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Kristopher Wuenstel, 2846 State Route 136, Bentleyville, PA 15314

Attorney: Daniel P. Gustine, Esq., Peacock Keller, LLP, 95 W. Beau St., Washington, PA 15301

WCR Vol 101 Issues 1,2,3

SECOND PUBLICATION

Bobak, Kenneth M.

a/k/a Kenneth Michael Bobak
Late of Finleyville
Washington Co., PA
File No. 63-20-0716

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Ken Bobak, 13736 Woodhaven Circle, Fort Myers, FL 33905

Attorney: Orlando R. Sodini, Esq., Sutter-Williams, LLC, 850 Ridge Ave., Ste. 300, Pittsburgh, PA 15212

WCR Vol 100,101 Issues 52,1,2

Brown, Jacob E.

Late of Burgettstown
Washington Co., PA
File No. 63-20-0345

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Charles F. Brown, III c/o

Attorney: Mark F. McKenna, Esq., McKenna & Assoc., 436 Boulevard of the Allies, Ste. 500, Pittsburgh, PA 15219-1314

WCR Vol 100,101 Issues 52,1,2

Delvecchio, Garrett Evan

Late of Washington
Washington Co., PA
File No. 63-20-0708

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or

attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Dennis Delvecchio c/o
Attorney: Walter J. Nalducci, 3300 Grant
Bldg., 310 Grant St., Pittsburgh, PA
15219

WCR Vol 100,101 Issues 52,1,2

Evans, Irene J.

Late of Canonsburg
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Lisa Kay Stokan, 1218 Meadowbrook Dr., Canonsburg, PA 15317

WCR Vol 100,101 Issues 52,1,2

Murphy, Geraldine

a/k/a Geraldine J. Murphy
Late of Chartiers Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrices or attorney, and all persons indebted to the decedent to make payment to the Executrices without delay.

Co-Executors: Erin Klobchar, 25 Eagle St., Charleroi, PA 15022; Audra Luisi, 147 Old Hickory Ridge Rd., Washington, PA 15301,
Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 100,101 Issues 52,1,2

Sprowls, James C.

a/k/a James Christopher Sprowls
a/k/a Chris Sprowls
Late of Donegal Twp.
Washington Co., PA
File No. 63-20-0637

The Register of Wills has granted Letters

on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Rebecca Welsh, P.O. Box 330, 205 Green St., Claysville, PA 15323
Attorney: Eva H. Ahern, Esq., Peacock Keller, LLP, 95 W. Beau St., Ste. 600, Washington, PA 15301

WCR Vol 100,101 Issues 52,1,2

Varner, Donna Hideko

Late of Canonsburg
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Executor: Barbara Varner Curry, P.O. Box 28, New Freeport, PA 15352

WCR Vol 100,101 Issues 52,1,2

Wagner, Patricia J.
Late of Adams Twp.
Washington Co., PA
File No. 63-20-0608

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Robert J. Caldwell, 100 Fairway Landings Dr., Canonsburg, PA 15317

Attorney: Christine Brown Murphy, Esq., Zacharia Brown P.C., 111 W. McMurray Rd., McMurray, PA 15317

WCR Vol 100,101 Issues 52,1,2

THIRD PUBLICATION

Chome, Charlotte Ann

Late of Hickory
Washington Co., PA
File No. 63-20-0631

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Chris Chome, 100 Main St., Hickory, PA 15340

Attorney: Lynn R. Emerson, Esq.,
Business Legal, P.C., 5021 Noblestown Rd., Oakdale, PA 15071

_____ WCR Vols 100,101 Issues 51,52,1

DeBaker, Katherine T.

Late of Cecil Twp.
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Christopher J. DeBaker, 326B Glaser Ave., Pittsburgh, PA 15202

Attorney: Jeffery P. Derrico, Esq., Greenlee Derrico Posa, LLC, 60 E. Beau St., Washington, PA 15301

_____ WCR Vols 100,101 Issues 51,52,1

Eckles, Jr., Donald A.

a/k/a Donald A. Eckles
a/k/a Donald Eckles, Jr.
aka Donald Eckles
Late of Burgettstown
Washington Co., PA
File No. 63-20-0569

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is

hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Tina M. Hall c/o,
Attorney: Peter K. Darragh, Esq.,
P.O. Box 435, Hickory, PA 15340

_____ WCR Vols 100,101 Issues 51,52,1

Groff, Paul F.

a/k/a Paul Fulton Groff
Late of Nottingham Twp.
Washington Co., PA
File No. 63-20-0609

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Josephine H. Groff, 91 E. Chevalier Ct., Eighty Four, PA 15330

Attorney: Donald B. Formoso, Esq.,
Peacock Keller, LLP, 95 W. Beau St.,
Ste. 600, Washington, PA 15301

_____ WCR Vols 100,101 Issues 51,52,1

Klepsic, Trudy Ann

Late of Prosperity
Washington Co., PA
File No. 63-20-0553

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Maurice Klepsic, 3367 Buffalo Creek Rd., P.O. Box 54, Taylorstown, PA 15365

Attorney: Peter D. Lyle, Esq., 81 Dutilh Rd., Ste. 200, Cranberry Twp., PA 16066

_____ WCR Vols 100,101 Issues 51,52,1

Sonson, Michael S.
a/k/a Michael Sonson
Late of Washington
Washington Co., PA
File No. 63-20-0541

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Caroline M. Mitchell, 1170 Sycamore St., Washington, PA 15301

Attorney: Susan Mondik Key, Esq.,
Peacock Keller, LLP, 95 W. Beau St.,
Ste. 600, Washington, PA 15301

WCR Vols 100,101 Issues 51,52,1

Sutherland, Jack C.
Late of Borough of Speers
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Joyce Danko, 1529 Mellon Ave., Monessen, PA 15062

Attorney: Mark J. Shire, Esq., Shire Law Firm, 1711 Grand Blvd., Park Ctr., Monessen, PA 15062

WCR Vols 100,101 Issues 51,52,1

CORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Pennsylvania Department of State for **Prime Air Specialty Gases, Inc.** pursuant to the provisions of the Pennsylvania Business Corporation Law of 1988.

Robert S. Sensky, Esq.
Laputka, Bayless, Ecker & Cohen, P.C.
One S. Church St., Ste. 301
Hazleton, PA 18201

WCR Vols 101 Issue 1

REAL ESTATE NOTICE

LEGAL NOTICE ACTION TO
QUIET TITLE
COURT OF COMMON PLEAS of
WASHINGTON COUNTY, PA
NO. 2010-5692

KEVICO, LLC, Plaintiff vs. Defendants:
CHRISTINA WYNO, STEVEN A.
WYNO, NICOLE M. MACKEY,
WASHINGTON COUNTY TAX
CLAIM BUREAU, WASHINGTON
COUNTY, RINGOLD SCHOOL DISTRICT,
UNION TOWNSHIP, PETERS
CREEK SANITARY AUTHORITY,
MIDLAND FUNDING, LLC, US
MORTGAGE RESOLUTION, LLC,
DOMINIC F. WYNO, deceased, his heirs
and administrators and THE SUCCESSORS
IN INTEREST, HEIRS AND ASSIGNS
of the aforementioned defendants
and all others having a lien or claim regarding the real property hereinafter described.

TAKE NOTICE that the Plaintiff, KEVICO, LLC has filed a Complaint-Action to Quiet Title regarding property it obtained from the WASHINGTON COUNTY TAX CLAIM BUREAU, said real property being more particularly described as: ALL THAT CERTAIN lot or parcel of land situate in the TOWNSHIP OF UNION, County of Washington, Commonwealth of Pennsylvania, being known and designated as Lot 84 in the E.J. Roberts Plan of Lots, said Plan is recorded in the Recorder's Office of Washington County, Pennsylvania, in Plan Book 8, page 41, tax parcel no. 690-004-02-06-0020-00, having erected thereon a residential structure with an address of 5020 Norman Avenue, Finleyville, PA 15332.

TAKE FURTHER NOTICE that a Rule to Show Cause is issued upon the above named Defendants and any other persons making a claim against the subject real property to Show Cause why title to the describe real property should not be quieted in the plaintiff, KEVICO, LLC. Said rule is Returnable before the Honorable Michael J. Lucas in the Court of Common Pleas of Washington County, on August 17, 2020 at 1:15 pm in Courtroom No. 5 or be FOREVER BARRED FROM MAKING ANY CLAIMS against the

described property and THEREBY QUIETING TITLE IN THE SUBJECT PROPERTY IN KEVICO, LLC, the Plaintiff, free of any liens or claims whatsoever.

**NOTICE TO DEFEND
AND CLAIM RIGHTS**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within Twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP IMMEDIATELY:**

LAWYER REFERRAL SERVICE

Washington County Bar Association 119
South College St. Washington, PA 15301
Phone: (724) 225-6710

**SOUTHWESTERN PENNSYLVANIA
LEGAL AID SOCIETY**

10 West Cherry Avenue Washington, PA
15301 Phone: (724) 225-6170

John Patrick Smider Esquire,
Attorney for the Plaintiff, Kevico, LLC
30 South Main St., Suite 102
Washington, PA 15301
724-228-6000

WCR Vols 101 Issue 1

MISCELLANEOUS NOTICE

IN THE COURT OF COMMON PLEAS
OF WASHINGTON COUNTY,
PENNSYLVANIA
ORPHANS' COURT DIVISION

IN RE: KAMDYN VAUGHTERS,

BIRTHDATE 3/26/2010

EASTYN VAUGHTERS,

BIRTHDATE 6/26/2015

PEYTON VAUGHTERS,

BIRTHDATE 9/8/2006

TRYSTN VAUGHTERS,

BIRTHDATE 9/10/2012

ASPN VAUGHTERS,

BIRTHDATE 11/20/18

CHILDREN OF JINNIE SUE WHITE,

PUTATIVE FATHER, RONALD

VAUGHTERS

AND ANY UNKNOWN FATHER

NO. 63-19-0262; 63-19-0264; 63-19-
0265; 63-19-0263; 63-20-0711

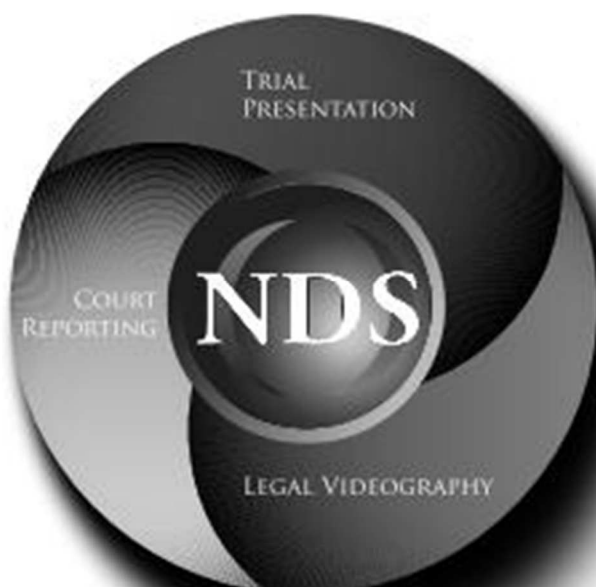
Take notice that a Petition for Involuntary Termination of Parental Rights of Jinnie Sue White, Ronald Vaughters and Any Unknown Father to Kamdyn Vaughters, Eastyn Vaughters, Peyton Vaughters, Trystn Vaughters, and Aspn Vaughters will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert his parental right should appear in Courtroom No. 7 of the Washington County Courthouse, Washington, Pennsylvania, for a hearing as to the same on August 20, 2020 at 10:00 am.

You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or can not afford representation, contact the Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, PA, 15301, (724) 225-6170, to find out where you can obtain legal help.

Aline Evans, Caseworker
Washington County Children & Youth
Social Service Agency
100 West Beau Street, Suite 502
Washington, PA 15301
Telephone: (724) 228-6884

WCR Vols 101 Issue 1

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