

# FAYETTE LEGAL JOURNAL

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## FAYETTE LEGAL JOURNAL

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**Co-Editors:** Garnet L. Gordon and Melinda Deal Dellarose

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## ESTATE NOTICES

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

### Third Publication

**ANN CARDENAS**, late of South Union Township, Fayette County, PA <sup>(3)</sup>  
*Executrix:* Mera Cardenas  
 c/o 4 North Beeson Boulevard  
 Uniontown, PA 15401  
*Attorney:* Sheryl R. Heid

**DOLORES FISHER, a/k/a DOLORES I. FISHER**, late of Washington Township, Fayette County, PA <sup>(3)</sup>  
*Executor:* Allen L. Fisher  
 113 Green Commons Drive  
 Pittsburgh, PA 15243  
 c/o Willman & Silvaggio, LLP  
 5500 Corporate Drive, Suite 150  
 Pittsburgh, PA 15237  
*Attorney:* Joseph Silvaggio

**ERNEST W. FRANKS**, late of Nicholson Township, Fayette County, PA <sup>(3)</sup>  
*Co-Executrix:* Diane Patterson  
*Co-Executor:* Donald Franks  
 18 Highhouse Street  
 Smithfield, PA 15478  
 c/o 76 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Douglas S. Sholtis

**TERRY KATKO**, late of South Union Township, Fayette County, PA <sup>(3)</sup>  
*Administrator:* Dona Rae Shupe McGukin  
 225 Half King Colony Road  
 Farmington, PA 15437  
 c/o Mitchell Law Office  
 902 First Street  
 P.O. Box 310  
 Hiller, PA 15444  
*Attorney:* Herbert G. Mitchell, Jr.

**WILLIAM H. KAYLOR, a/k/a WILLIAM HERMAN KAYLOR**, late of South Connellsville Borough, Fayette County, PA <sup>(3)</sup>  
*Personal Representative:* Bart Lee Kaylor  
 c/o Watson Mundorff, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425  
*Attorney:* Robert A. Gordon

**MYRNA D. MALIK, a/k/a MYRNA DOLORES MALIK**, late of Upper Tyrone Township, Fayette County, PA <sup>(3)</sup>  
*Co-Executrix:* Lori L. Wiltroat and Darla K. Loucks  
 c/o Proden & O'Brien  
 99 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Wendy L. O'Brien

**FLORENCE J. MYERS**, late of Connellsville, Fayette County, PA <sup>(3)</sup>  
*Personal Representatives:* Mary Koontz and Kathleen Schott  
 c/o Watson Mundorff, LLP  
 720 Vanderbilt Road  
 Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**GENEVIEVE A. OPALINSKI, a/k/a GENEVIEVE OPALINSKI**, late of Scottdale, Fayette County, PA <sup>(3)</sup>  
*Personal Representatives:* Sandra Younkin and Vincent J. Opalinski  
 c/o George & George  
 92 East Main Street  
 Uniontown, PA 15401  
*Attorney:* Joseph M. George

**GEORGE EARL REESE**, late of Saltlick Township, Fayette County, PA <sup>(3)</sup>  
*Executrix:* 133 North Carroll Street  
 Bruceton, Tennessee 38317  
 c/o King Legal Group  
 114 North Maple Avenue  
 Greensburg, PA 15601  
*Attorney:* Robert W. King

**RONALD E. SHOW**, late of Masontown,  
Fayette County, PA (3)

*Executrix:* Paula Weidel  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**MATTHEW TATE, a/k/a MATTHEW  
ALLEN TATE**, late of Springhill Township,  
Fayette County, PA (3)

*Administratrix:* Shelly Tate  
c/o Kopas Law Office  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**VERLAINE WILSON**, late of Dunbar  
Township, Fayette County, PA (3)

*Executrix:* Diane Hillen  
301 Upper Sandy Hollow Road  
Vanderbilt, PA 15486  
c/o 68 Old Clairton Road  
Pittsburgh, PA 15236  
*Attorney:* D. Scott Lautner

**MAE M. WISE**, late of McClellandtown,  
Fayette County, PA (3)

*Administratrix:* Susan A. Parsons  
c/o Monaghan & Monaghan, LLP  
57 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary D. Monaghan

**LORNA P. YAUGER**, late of Lemont Furnace,  
Fayette County, PA (3)

*Executrix:* Tresa L. Lowman  
c/o 45 East Main Street, Suite 400  
Uniontown, PA 15401  
*Attorney:* Charles C. Gentile

## Second Publication

**FRANCES ANTOLIK**, late of Uniontown,  
Fayette County, PA (2)

*Administrator:* James Antolik  
c/o 84 East Main Street  
Uniontown, PA 15401  
*Attorney:* Vincent M. Tiberi

**ANTHONY LAZZARI**, late of Springfield  
Township, Fayette County, PA (2)

*Administratrix:* Mary G. Winkleblech  
123 Union Street  
New Eagle, PA 15067  
c/o 1202 West Main Street  
Monongahela, PA 15063  
*Attorney:* James W. Haines, Jr.

**BERNARD D. LEWIS**, late of Uniontown,  
Fayette County, PA (2)

*Executrix:* Tina Bendishaw  
115 Evans Street  
Uniontown, PA 15401

**ROGER LUPPOLD**, late of Dunbar Township,  
Fayette County, PA (2)

*Personal Representative:* Mark D. Luppold  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard Husband

**JOHN PLEVA**, late of Franklin Township,  
Fayette County, PA (2)

*Executor:* Frank Pleva  
1413 Greensburg Pike  
West Newton, PA 15089  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

**MARY M. TRESSLER**, late of South  
Connellsville Borough, Fayette County, PA (2)

*Personal Representative:* Donna Sage  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Timothy J. Witt

## First Publication

**CORA GILMORE**, late of Uniontown, Fayette County, PA (1)

*Administratrix:* Debra Downs  
62 Alderman Drive  
Morgantown, WV 26508  
c/o Mears, Smith, Houser & Boyle, P.C.  
127 North Main Street  
Greensburg, PA 15601  
*Attorney:* Jon M. Lewis

**CATHERINE M. KELLY**, late of Redstone Township, Fayette County, PA (1)

*Executrix:* Jennifer Kovach  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Jeremy J. Davis

**JOSEPH F. SCHUBERT, JR.**, late of Luzerne Township, Fayette County, PA (1)

*Administrator:* Bruce Davis  
200 Krepps Lane  
East Millsboro, PA 15433  
c/o Logan & Gatten Law Offices  
54 North Richhill Street  
Waynesburg, PA 15370  
*Attorney:* Lukas B. Gatten

**KATHLEEN SHROPSHIRE**, late of Bullskin Township, Fayette County, PA (1)

*Administratrix:* Robin G. Villi  
238 Horse Shoe Bend Road  
Acme, PA 15610  
c/o Henderson Law Offices, PC  
319 Pittsburgh Street  
Scottsdale, PA 15683  
*Attorney:* Kevin Henderson

**MARIE A. TONARELLI, a/k/a MARIE TONARELLI**, late of Washington Township, Fayette County, PA (1)

*Executor:* Dennis Tonarelli  
927 Conway Avenue  
Belle Vernon, PA 15012  
c/o 823 Broad Avenue  
Belle Vernon, PA 15012  
*Attorney:* Mark E. Ramsier

## LEGAL NOTICES

### NOTICE

Notice is hereby given that the Certificate of Organization has been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 16, 2023, for a limited liability company known as Elite Auction Services of Uniontown, LLC.

Said limited liability company has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The purpose or purposes of the limited liability company is/are: Auction services and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

DAVIS & DAVIS

BY: Gary J. Frankhouser, Esquire  
107 East Main Street  
Uniontown, PA 15401

IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY PENNSYLVANIA  
CIVIL DIVISION  
No. 333 of 2023, G.D.

GERMAN TOWNSHIP, PENNSYLVANIA,  
Plaintiff,

V.

LITTLE KNIGHTS BASEBALL LEAGUE,  
Defendant.

### SERVICE BY SPECIAL ORDER OF COURT PURSUANT TO Pa.R.C.P. 430

AND NOW, comes the Plaintiff, German Township, Fayette County, Pennsylvania, by and through its Solicitor, Vincent M. Tiberi, Esquire, who hereby publishes the following notice as the means to perfect the lawful service of original process, namely its Complaint in Civil Action to Quiet Title, which was filed on the 21st day of February, 2023, in the Court of Common Pleas of Fayette County, Pennsylvania, at case number 333 of 2023, G.D., upon the named Defendant therein, the Little Knights Baseball League, a registered 501(c)(3) non-profit corporation, which is currently inoperational. Said means of service being

perfected under and pursuant to Order of the Court of Common Pleas of Fayette County, Pennsylvania, dated the 2nd day of May 2023, and authorized by Rule 430 of the Pennsylvania Rules of Civil Procedure.

### NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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REFERRAL SERVICE  
100 SOUTH STREET  
P.O. BOX 186  
HARRISBURG, PA 17108  
TELEPHONE (800) 692-7375

Vincent M. Tiberi, Esquire  
Solicitor, German Township, Pennsylvania  
84 East Main Street  
Uniontown, Pennsylvania, 15401  
(724) 430-0300

**TO: SUSAN R. OOM, JANICE C. BOHON, JESSIE RUBLE, MINERVA RUBLE, SARAH RUBLE, JAMES ALLEN WALSH, DAVID MCCANN, STEPHANIE RUBLE, CAROL RUBLE, BEVERLY DUGGAN, JAMES ROBERT WISE, GENEVIEVE S. RUBLE, SAMUEL G. RUBLE, JEFFREY RUBLE, RUTH HUGH CALLAGHAN, JULIA A. HUGH, NELLE RUBLE SOUTH, their heirs and assigns:**

You are hereby notified that Susan E. Hugh and Larry B. Sullivan Jr. and Kellie L. Sullivan, his wife, filed their Complaint at No. 714 of

2023, G.D. in the Court of Common Pleas of Fayette County, Pennsylvania, in an Action to Quiet Title wherein it is alleged that they are the owners in possession of a certain tract of land situate in Georges Township, Fayette County, Pennsylvania, deed of which is recorded in Fayette County Record Book 2785, page 76, and Record Book 2470, page 1999,. more particularly bounded and described as follows:

**ALL** those two (2) certain tracts of land situate in Georges Township, Fayette County, Pennsylvania, bounded and described as follows:

**FIRST TRACT: BEGINNING** at a white oak on the northwest side of Georges Creek, a comer in land late of F.H. Oliphant; thence South 57-7/8° East, 52.8 perches to stones in the Haddentown Road; thence along the middle of said road, South 27 ½° West, 10 perches to stone in the road; thence South 53° West, 39-1/4 perches to stones; thence with line of said Oliphant land, South 47° West, 55.4 perches to a white oak; thence North 43° West, 63 perches (crossing over the aforesaid road) to stones; thence South 72 ½° West, 16 perches to stones; thence re- crossing Georges Creek, North 30-5/8° West, 39.2 perches to stones; thence North 63-3/8° East, 52 ½ perches to the place of beginning, containing 34 acres and 89 perches.

**SECOND TRACT: BEGINNING** in the road leading from Fairchance to Haddentown; thence by same, North 29° East, 11.4 perches; thence by land now or late of James T. Hugh, North 56° West, 50.4 perches to post; thence by land of Orlando Humbert, South 40 ½° West, 12.72 perches to a fallen white oak; thence by land formerly of Warner Hugh, South 57-1/4° East, 53.02 perches to the place of beginning, containing 3 acres, 3 rods and 20 perches.

The Complaint asks the Court to decree that title to said real estate is in the plaintiffs and to enjoin the defendants and their heirs and assigns, from setting up any title to said real estate and from impeaching, denying, or in any way attacking the plaintiffs' title to the same. 2470, page 1999.

**You are hereby notified that you have been sued in court. If you wish to defend against the claims set forth in the Complaint and in the within advertisement, you must take action within twenty (20) days after the last advertisement of this notice 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). THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

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100 SOUTH STREET  
P.O. BOX 186  
HARRISBURG, PA 17108  
TELEPHONE (800) 692-7375

Vincent J. Roskovensky, II  
Attorney for Plaintiffs

  
**DiBella Weinheimer**  
 Geer McAllister Best Coco Lloyd Whalen



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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# Registers' Notice

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

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

**Monday, June 5, 2023, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2617-0391	GLEN F. STRICKLER, JR., deceased	Judith E. Strickler, Executrix
2619-0665	BEATRICE MAE HISSEM, deceased	Carol Shreve, Executrix
2621-0019	WILLIAM H. THOMAS, JR., deceased	Bruce Thomas, Administrator
2622-0081	GREGORY M. ZERAMBO, JR., deceased	Gregory R. Stark, Administrator

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

**Tuesday, June 20, 2023, at 9:30 A.M.**

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

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

**Monday, June 5, 2023, at 9:30 A.M.**

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2622-0014	ANNA ROSE MUZIKA, deceased	Theodore Muzika, Co-Executor and Rose Marie Muzika, Co-Executor

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

**Tuesday, June 20, 2023, at 9:30 A.M.**

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



# WARMAN ABSTRACT & RESEARCH LLC

JOHN F. WARMAN

518 Madison Drive

Smithfield, PA 15478

724-322-6529

johnfranciswarman@gmail.com

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JUDICIAL OPINION

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

JOSEPH BROWNLEE and MARY JO :
BROWNLEE, Co-Administrators of :
the Estate of JOE JACK BROWNLEE, :
Plaintiffs, :

v. :

UNIONTOWN HOSPITAL t/d/b/a :
WVU MEDICINE UNIONTOWN :
HOSPITAL; WEST VIRGINIA UNITED :
HEALTH SYSTEM, INC. t/d/b/a WEST :
VIRGINIA UNIVERSITY HEALTH SYSTEM; :

VENKATESH GUPTA CHEETIRALA, M.D. : No. 1909 of 2022
Defendants. : Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.

April 27, 2023

Before this Court are the Preliminary Objections of Defendants Uniontown Hospital t/d/b/a WVU Medicine Uniontown Hospital (Uniontown/WVU) and West Virginia United Health System, Inc. t/d/b/a West Virginia University Health System (WVUHS) to Plaintiffs Amended Complaint. {1}

The standard in determining preliminary objections is whether the facts pleaded establish that it is clear and free from doubt that the plaintiff will be unable to prove the facts legally sufficient to establish a right to relief. Bower v. Bower, 611 A.2d 181, 182 (Pa. 1992). A trial court must accept as true all facts that are well-pleaded, material, and relevant, together with any reasonable inferences that may be drawn from those facts. Mellon Bank, NA. v. Fabinyi, 650 A.2d 895, 899 (Pa. Super. Ct. 1994).

Defendants initially raised two preliminary objections, the second of which was as to the non-involvement of Defendant WVHUS. However, this matter already was decided on January 26, 2023 when this Court denied WVUHS' separate motion to dismiss. Accordingly, at oral argument, Defendant WVUHS withdrew the second objection. Therefore, the sole remaining objection for consideration is that Plaintiffs' pleading is legally insufficient under Pa.R.Civ.P. 1028(a)(4). After consideration of the pleading, briefs, and oral argument on April 13, 2023, the objection is overruled for the reasons set forth below.

Defendants argue that Plaintiffs have not pleaded facts and circumstances that are legally sufficient to support their claim for punitive damages under 40 P.S. § 1303.505 of the Medical Care Availability and Reduction of Error (MCARE) Act. Defendants argue that although Plaintiffs' Amended Complaint employs language alleging recklessness; {2} it does not plead facts sufficient to show the level of recklessness required to support a legal claim for punitive damages.

{1} Defendant Venkatesh Gupta Cheetirala, M.D. is not a party to these Preliminary Objections and filed an Answer and New Matter on December 2, 2022.

Under the Act, punitive damages may be awarded for "a health care provider's willful or wanton conduct or reckless indifference to the rights of others. The trier of fact may consider the character of the act, the nature and extent of harm caused and the wealth of the health care provider." 40 P.S. § 1303.505(a). A showing of merely gross negligence is insufficient to support an award of punitive damages. § 1303.505(b).

Furthermore,

Punitive damages shall not be awarded against a health care provider who is only vicariously liable for the actions of its agent that caused the injury unless it can be shown by a preponderance of the evidence that the party knew of and allowed the conduct by its agent that resulted in the award of punitive damages.

§ 1303.505(c).

Plaintiffs' Amended Complaint at Counts I - IV are a wrongful death and a survival action against Defendants Uniontown/WVU and WVUHS, respectively, and each action sounds in professional negligence/vicarious liability. For each count, the relief requested includes a demand for both compensatory and punitive damages. The Amended Complaint therefore does implicate medical professional liability, and Defendants correctly assert that Section 1303.505(c) of the Act is applicable.

However, while there is no single paragraph in the Amended Complaint that explicitly uses the language of § 1303.505(a) or (c), Plaintiffs do set forth numerous specific dates, times, blood sugar measurements, and treatments given (or not given) from November 20, 2020 to November 26, 2020. ¶¶ 28-49. In addition, Plaintiffs allege specifically that Defendants failed to establish and ensure appropriate diabetic protocols and to ensure that the decedent received a proper assessment and treatment related to diabetes management. ¶¶ 60(e),(g); 70(e),(g). The reasonable inferences from the Amended Complaint as a whole therefore are that (1) the Defendants knew of decedent's need for diabetic management because his blood sugar was measured repeatedly and the levels were noted in the medical records over a period of several days; and (2) the Defendants' failure to ensure that proper protocols existed and/or were followed to manage the decedent's obvious need for diabetic management allowed the deterioration of his condition and his eventual demise to occur. Therefore, while Plaintiffs fail to explicitly state that Defendants' conduct was willful or wanton or that Defendants knew of and allowed their agents' conduct, the reasonable inferences that may be drawn from the facts as pleaded are sufficient at this stage for a claim of punitive damages. Because it is not clear and free from doubt that Plaintiffs cannot prove the facts sufficient for a legal right to relief, Defendants' objection is overruled.

#### ORDER

AND NOW, this 27th day of April, 2023 after consideration of Defendants' Preliminary Objections, and the pleadings, briefs, and oral argument on the matter, it is hereby ORDERED that Defendants' Preliminary Objection as to the legal insufficiency of Plaintiffs' claim is OVERRULED. Defendants' only other Preliminary Objection already was decided by this Court's Order of January 26, 2023 and was withdrawn.

Defendants shall file an Answer within twenty (20) days after notice of this Order.

BY THE COURT:

Linda R. Cordaro, Judge

ATTEST:

Prothonotary

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{2} Several paragraphs of the Amended Complaint use the phrase "negligently and recklessly," e.g., ¶¶ 20, 27, 28.

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