

# Adams County Legal Journal

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## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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PUBLIC NOTICE TO  
JESSICA MARIE HOWE, NAVIN LYNN  
KRIDELER, JR. AND  
KYLE WESLEY BARTRAM

In Re: Adoption of Isabelle Lynn Krideler  
and Layla Marie Krideler, Minors

A petition has been filed asking the Court to put an end to all rights you have as a parent to your children, Isabelle Lynn Krideler and Layne Marie Krideler. A Termination of Parental Rights Hearing has been scheduled for April 29, 2020, at 1:30 p.m., in Court Room No. 7003, of the York County Judicial Center, 45 North George Street, York, Pennsylvania, to terminate your parental rights to Isabelle Lynn Krideler (DOB: July 19, 2013), whose Father is Kyle Wesley Bartram and whose Mother is Jessica Marie Howe; and to Layla Marie Krideler (DOB: December 5, 2014), whose Father is Navin Lynn Krideler, Jr. and whose Mother is Jessica Marie Howe. 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 a right to be represented at the hearing by a lawyer. 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.

ATTORNEY CONNECTION/YCBA  
MODEST MEANS

137 East Market Street  
York, Pennsylvania 17401  
717-854-8755

<http://www.yorkbar.com/?page=YCBAFindEsq>

If you cannot afford an attorney, an attorney may be appointed by the court at no cost to you if you qualify. Contact the following office for instructions and forms to complete and file.

Clerk of the Orphans' Court  
York County Judicial Center  
45 North George Street  
York, Pennsylvania 17401  
717-771-9288

<http://yorkcountypa.gov/components/jdownloads/send/100-adopt-forms/824-packet-for-court-appted-counsel-and-financial-affidavit.html>

Martin Miller, Esq.  
Solicitor for York County Offices of  
Children, Youth & Families

A prospective adoptive parent of a child may enter into an agreement with a birth relative of the child to permit continuing contact or communication between the child and the birth relative or between the adoptive parent and the birth relative. An agency or anyone representing the parties in an adoption shall provide notification to a prospective adoptive parent, a birth parent and a child who can be reasonably expected to understand that a prospective adoptive parent and a birth relative of a child have the option to enter into a voluntary agreement for the continuing contact or communication. See 23 Pa.C.S.A. Section 2731, et seq.

3/13, 3/20 & 3/27

NAME CHANGE NOTICE

NOTICE IS HEREBY GIVEN that on February 6, 2020, a petition for name change was filed in the Court of Common Pleas of Adams County, Pennsylvania requesting a decree to change the name of Petitioner Diane Wysocki Walker to Diane Wysocki Sachele.

The court has affixed April 17 at 10:30 AM in courtroom #4, third floor of the Adams County Courthouse as the time and place for the hearing of said petition, when and where all persons interested may appear and show cause, if any they have, why the petition should not be granted.

3/27

MID-ATLANTIC COOPERATIVE SOLUTIONS, INC., D/B/A  
AERO ENERGY VS. JOYCE E MILLER, JAMES L. MILLER,  
JEFFREY D. WEAVER AND SARAH WEAVER

1. In this litigation, Mid-Atlantic Cooperative Solutions, Inc., d/b/a Aero Energy (“Aero”) pursues civil remedies in an effort to recover approximately \$210,500 in lost revenue as a result of the criminal conduct of former employee, Joyce E. Miller.

2. There is also a paucity of evidence that other than knowing she was employed by Aero, James had any knowledge of the amount of her proper wages or the balance in her separate bank accounts. Importantly, there is no evidence of exorbitant purchases made by Joyce which might normally place one on alert. Aero’s claim that intent can be inferred from the facts of their marriage, cohabitation and division of reasonable household expenses is insufficient as a matter of law to establish intent or knowledge on James’ part. Accordingly, the causes of action for fraud and conspiracy will be dismissed.

3. Inherent in the elements of both conversion and unjust enrichment is the element that the defendant possessed or otherwise benefitted from the property at issue. Instantly, there is no evidence of either as it relates to James.

4. In short, there is a complete lack of any evidence that Joyce’s contribution to the shared expenses to the benefit of James was derived from the funds Joyce converted. Since any conclusion to the contrary can only be unfounded speculation, summary judgment is appropriate.

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY,  
PENNSYLVANIA, 2018-S-458, MID-ATLANTIC COOPERATIVE  
SOLUTIONS, INC., D/B/A AERO ENERGY VS. JOYCE E.  
MILLER, JAMES L. MILLER, JEFFREY D. WEAVER AND  
SARAH WEAVER

Justin A. Tomevi, Esquire and Joseph P. Schalk, Esquire, Attorneys  
for Plaintiff

Paul B. Royer, Esquire, Attorney for Defendant Joyce E. Miller

George W. Swartz, II, Esquire, Attorney for Defendant James L.  
Miller

George, P. J., February 24, 2020

OPINION

In this litigation, Mid-Atlantic Cooperative Solutions, Inc. d/b/a Aero Energy (“Aero”) pursues civil remedies in an effort to recover approximately \$210,500<sup>1</sup> in lost revenue as a result of the criminal conduct of former employee, Joyce E. Miller (“Joyce”). Aero alleges that Joyce, as the company’s payroll manager, artificially and

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<sup>1</sup> The Complaint alleges Joyce converted approximately \$140,250 to herself and approximately \$73,100 to her son.

without authority inflated the amounts of both her and Jeffrey D. Weaver's<sup>2</sup> paychecks for approximately eight-and-a-half years from January, 2009 through August, 2017<sup>3</sup>. Aero has obtained default judgment against Joyce and reached a non-trial disposition with the Defendants, Jeffrey Weaver and Sarah Weaver.<sup>4</sup> The sole remaining Defendant in this litigation is Joyce's husband, James L. Miller ("James"). Aero alleges that James unlawfully converted Aero's funds; committed fraud; was unjustly enriched in benefiting from the converted funds; and conspired with Joyce for the purpose of converting Aero's funds. Before the Court is James' Motion for Summary Judgment claiming, as a matter of law, that Aero's evidence is insufficient to support any of the claims.

The standard by which to evaluate a motion for summary judgment is well settled in Pennsylvania. A court should enter summary judgment only where there is no genuine issue as to any material fact and it is clear that the moving party is entitled to judgment as a matter of law. **Pa. R. Civ. P. 1035.2; *Abrams v. Pneumo Abex Corp.***, 981 A.2d 198, 203 (Pa. 2009) (quoting *Pappas v. Asbel*, 768 A.2d 1089, 1095 (Pa. 2001)). Because of the nature of the relief, a motion for summary judgment requires strict scrutiny and should be granted only in the clearest of cases. *Williams v. Pilgrim Life Ins. Co.*, 452 A.2d 269, 270 (Pa. Super. 1982). Nevertheless, where the non-moving party bears the burden of proof on an issue, mere reliance on the pleadings is insufficient to avoid summary judgment. The non-moving party may suffer judgment as a matter of law for failure to advance sufficient evidence on an issue essential to the cause of action. *Krauss v. Trane U.S. Inc.*, 104 A.3d 556, 563 (Pa. Super. 2014). In weighing whether the grant of summary judgment is proper, the record must be reviewed in the light most favorable to the non-moving party and all doubts as to the existence of genuine issue of material fact must be resolved against the moving party. *Shepard v. Temple University*, 948 A.2d 852, 856 (Pa. Super. 2008) (quoting *Murphy v. Duquesne University*, 777 A.2d 418, 429 (Pa. 2001)).

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<sup>2</sup> According to the Complaint, Jeffrey Weaver is Joyce's son.

<sup>3</sup> Joyce entered a plea of nolo contendere to a charge of theft by unlawful taking, 18 Pa. C.S.A. § 3921(a), as a felony of the third degree and was directed to pay restitution in the amount of \$104,275 on October 25, 2018. Apparently, the amount of restitution was reduced due to payments made by Joyce prior to sentencing.

<sup>4</sup> According to the Complaint, Sarah Weaver is the spouse of Jeffrey Weaver.

Two of the four claims by Aero against James require proof of intentional conduct in order to prevail. A successful claim of fraud requires a plaintiff to establish: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, without knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on a misrepresentation; and (6) resulting injury caused by the reliance. *Milliken v. Jacono*, 60 A.3d 133, 140 (Pa. Super. 2012). The essential elements of a claim for civil conspiracy are: (1) a combination of two or more persons acting with a common purpose to do an unlawful act or to do a lawful act by unlawful means or for an unlawful purpose; (2) an overt act done in pursuance of the common purpose; and (3) actual legal damages. *Phillips v. Selig*, 959 A.2d 420, 437 (Pa. Super. 2008). This Court's review of the record has failed to reveal any direct evidence of intentional conduct by James.

Aero properly notes that proof sufficient to support the elements of a cause of action may be established entirely by circumstantial evidence. *Peugeot Motors of America, Inc. v. Stout*, 456 A.2d 1002, 1005 (Pa. Super. 1983). Aero argues that sufficient circumstantial evidence currently exists to create an issue of disputed fact for the fact-finder. Aero points out the undisputed fact that Joyce and James are married and, during the relevant time period, lived together. They note that Joyce has been convicted of the theft of Aero's money. Aero further points to deposition testimony which reflects that the couple filed joint tax returns and shared household expenses. Aero concludes it is reasonable to infer that a husband who derived household benefits from his wife's criminal conduct had knowledge of and was participating in the fraud. Under the current facts, this argument is not persuasive.

Circumstantial evidence has been defined as evidence about one or more facts that logically leads one to believe the truth of another fact. *Monaci v. State Horse Racing Com'n.*, 717 A.2d 612, 618 (Pa. Cmwlth. 1998). However, in relying upon circumstantial evidence to reasonably infer another fact, "The evidence must be adequate to establish the conclusion sought and must so preponderate in favor of that conclusion so as to outweigh...any other evidence and reasonable inferences therefrom which are inconsistent therewith." *Flagiello v. Crilly*, 187 A.2d 289, 290 (Pa. 1963).

Applying this standard, the facts noted by Aero do not reasonably lead to a conclusion of knowledge or intent on the part of James. At the time of Joyce's criminal conduct, the parties possessed separate checking accounts and operated financially independent of each other. There is very little, if any, proof of any co-mingling of finances between the parties. Although each was responsible for paying respective household bills, with rare exception, neither directly shared funds with the other. There is no evidence that the portion of household bills paid by Joyce exceeded her lawful income. There is also a paucity of evidence that other than knowing she was employed by Aero, James had any knowledge of the amount of her proper wages or the balance of her separate bank accounts. Importantly, there is no evidence of any exuberant purchases made by Joyce which might normally place one on alert. Aero's claim that intent can be inferred from the facts of their marriage, cohabitation and division of reasonable household expenses is insufficient as a matter of law to establish intent or knowledge on James' part. Accordingly, the causes of action for fraud and conspiracy will be dismissed.

Aero's remaining claims of conversion and unjust enrichment will suffer a similar fate but for a different reason. Under Pennsylvania law, a conversion is "the deprivation of another's right of property in, or possession of, a chattel, or other interference therewith, without the owner's consent and without lawful justification." *LB Foster Co. v. Charles Caracciolo Steel & Metal Yard, Inc.*, 777 A.2d 1090, 1095 (Pa. Super. 2001) (quoting *McKeeman v. Corestates Bank, N.A.*, 751 A.2d 655, 659 N. 3 (Pa. Super. 2000)). Under the law of conversion, a good faith purchaser of converted goods is also a converter responsible for damages to the true owner. *Id.* Conversion does not require a specific intent to commit a wrong. *Id.*

In order to establish a cause of action for unjust enrichment, there must be proof of: (1) benefits conferred on the defendant by the plaintiff; (2) appreciation of such benefits by the defendant; and (3) acceptance and retention of such benefits under circumstances that it would be inequitable for the defendant to retain a benefit without payment of value. *Stoeckinger v. Presidential Fin. Corp. of Delaware Valley*, 948 A.2d 828, 833 (Pa. Super. 2008). In considering a claim for unjust enrichment, the focus is not on the intention of the parties but rather on whether the defendant has been unjustly

enriched. *Id.* Thus, inherent in the elements of both conversion and unjust enrichment is the element that the defendant possessed or otherwise benefited from the property at issue. Instantly, there is no evidence of either as it relates to James.

The undisputed record reflects nothing more than a sharing of household expenses by Joyce and James. James paid the mortgage from his sole income while Joyce paid for groceries and utilities. As mentioned earlier, there is no indication of exorbitant purchases made by Joyce for James' use or benefit. A review of the financial documents presented by the parties fails to reveal any extraordinary expenses. Importantly, Aero is unable to point to any nexus between the misappropriated funds and Joyce's contribution to marital expenses. More specifically, there is no proof that Joyce's lawful income was insufficient to pay her share of the marital expenses. In short, there is a complete lack of any evidence that Joyce's contribution to the shared expenses to the benefit of James was derived from the funds Joyce converted. Since any conclusion to the contrary can only be unfounded speculation, summary judgment is appropriate.

For the foregoing reasons, the attached Order is entered.

#### ORDER OF COURT

AND NOW, this 24th day of February, 2020, it is hereby Ordered that summary judgment on all counts is entered in favor of the Defendant, James L. Miller, and against the Plaintiff, Mid-Atlantic Cooperative Solutions, Inc. d/b/a Aero Energy.

The Adams County Prothonotary's Office is directed to enter judgment as set forth hereinabove. Since all remaining claims against other parties have been resolved, the Prothonotary's Office is directed to mark this matter closed. Trial scheduled in this matter for the April 27, 2020 Civil Trial Term is cancelled.





## ESTATE NOTICES

**NOTICE IS HEREBY GIVEN** that in the estates of the decedents set forth below, the Register of Wills has granted letters, testamentary of or administration to the persons named. All persons having claims or demands against said estates are requested to make known the same, and all persons indebted to said estates are requested to make payment without delay to the executors or administrators or their attorneys named below.

## FIRST PUBLICATION

## ESTATE OF JAMES C. BIGHAM, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executrices: Beverly J. Short, 11 Evergreen Trail, Fairfield, PA 17320; Heidi R. Shaw, P.O. Box 155, Fairfield, PA 17320

Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

## ESTATE OF RONALD ELWIN BLONDIN, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: Jamie Paul Blondin, 123 Susan Drive, Garner, NC 27529

Attorney: Matthew R. Battersby, Esq., Battersby Law Office, P.O. Box 215, Fairfield, PA 17320

## ESTATE OF CARL W. ELICKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrices: Carol P. Wilson, 186 Skyline Drive, Hanover, PA 17331; Lisa A. Elicker, 421 Gardners Station Road, Gardners, PA 17324

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

## ESTATE OF MARY ANN LINDSEY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: Diane M. Topper, 327 Ridge Avenue, McSherrystown, PA 17344; Michael J. Lindsey, 950 Westminster Avenue, Hanover, PA 17331

Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

## SECOND PUBLICATION

## ESTATE OF JAMES E. ALVEBERG, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Grace A. Watson, 4849 Greenwood Street, Brookhaven, PA 19015

Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

## ESTATE OF BETSY A. FELDER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Administrator: Thomas Meltzer, 700 Durant Street, Apt. 204, Chapel Hill, NC 27517

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

## ESTATE OF DOROTHY B. HELLER, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Personal Representative: Barry A. Heller, 107 Georgetown Road, Gardners, PA 17324

Attorney: Teeter Law Office, 108 West Middle Street, Gettysburg, PA 17325

## ESTATE OF DEAN K. HESS, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Co-Administrators: Cory K. Hess, 881 Yellow Hill Road, Biglerville, PA 17307; Devin Hess, 184 Nashville Boulevard, Spring Grove, PA 17362

Attorney: John A. Wolfe, Esq., Wolfe, Rice & Quinn, LLC, 47 West High Street, Gettysburg, PA 17325

## ESTATE OF AGNES M. POHLMAN, DEC'D

Late of Mount Pleasant Township, Adams County, Pennsylvania

Co-Executors: Bruce E. Pohlman, 1633 Centennial Road, New Oxford, PA 17350; Marcia A. Wilcox, 374 Miller Road, Elizabethtown, PA 17022

Attorney: Robert E. Campbell, Esq., Salzmann Hughes, P.C., 112 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF SARA M. SANDOE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Susan P. Pizzuto, 820 Yellow Hill Road, Biglerville, PA 17307

Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF BETTY L. TEAL, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Troy L. Teal, c/o Duane P. Stone, Esq., Stone, Wiley, & Linsench, PC, 3 N. Baltimore Street, Dillsburg, PA 17019

Attorney: Duane P. Stone, Esq., Stone, Wiley, & Linsench, PC, 3 N. Baltimore Street, Dillsburg, PA 17019

## THIRD PUBLICATION

## ESTATE OF ROMAINE FLORENCE EMIG, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Lori Ann Bare, 880 Edgemoor Road, Hanover, PA 17331

Attorney: Clayton A. Lingg, Esq., Mooney Law, 230 York Street, Hanover, PA 17331

## ESTATE OF PAUL H. HENNINGER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Joyce C. King, c/o Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

Attorney: Linda S. Siegle, Esq., Siegle Law, 1010 Eichelberger Street, Suite 3, Hanover, PA 17331

## ESTATE OF ROSE M. HYDOCK, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Jeffery A. Hydock, 227 Ewell Avenue, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF MARY A. KRAMER, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Administrator: Christina M. Gregory, 10576 Harney Road, Emmitsburg, MD 21727

## ESTATE OF MARY LOUISE MAY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Karen L. Kohlmaier, 145 Bolero Drive, Downingtown, PA 19335

Attorney: Clayton A. Lingg, Esq., Mooney Law, 230 York Street, Hanover, PA 17331

**THIRD PUBLICATION CONTINUED**

ESTATE OF ROBERT JAMES ROCK,  
DEC'D

Late of Mount Joy Township, Adams  
County, Pennsylvania

Patricia A. Smith, 130 Teeter Road,  
Littlestown, PA 17340

Attorney: David K. James, III, Esq.,  
234 Baltimore Street, Gettysburg,  
PA 17325

ESTATE OF MARGARET R. STAIR a/k/a  
MARGARET RUTH SHRIVER STAIR  
a/k/a MARGARET S. STAIR, DEC'D

Late of the Borough of Littlestown,  
Adams County, Pennsylvania

Executor: Bruce W. Stair, 703 West  
King Street, Littlestown, PA 17340

Attorney: Elinor Albright Rebert, Esq.,  
515 Carlisle Street, Hanover, PA  
17331

ESTATE OF BARBARA L. TRIMMER,  
DEC'D

Late of the Borough of Biglerville,  
Adams County, Pennsylvania

Executor: Michael L. Trimmer, c/o  
Samuel A. Gates, Esq., Gates &  
Gates, P. C., 250 York Street,  
Hanover, PA 17331

Attorney: Samuel A. Gates, Esq.,  
Gates & Gates, P. C., 250 York  
Street, Hanover, PA 17331



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