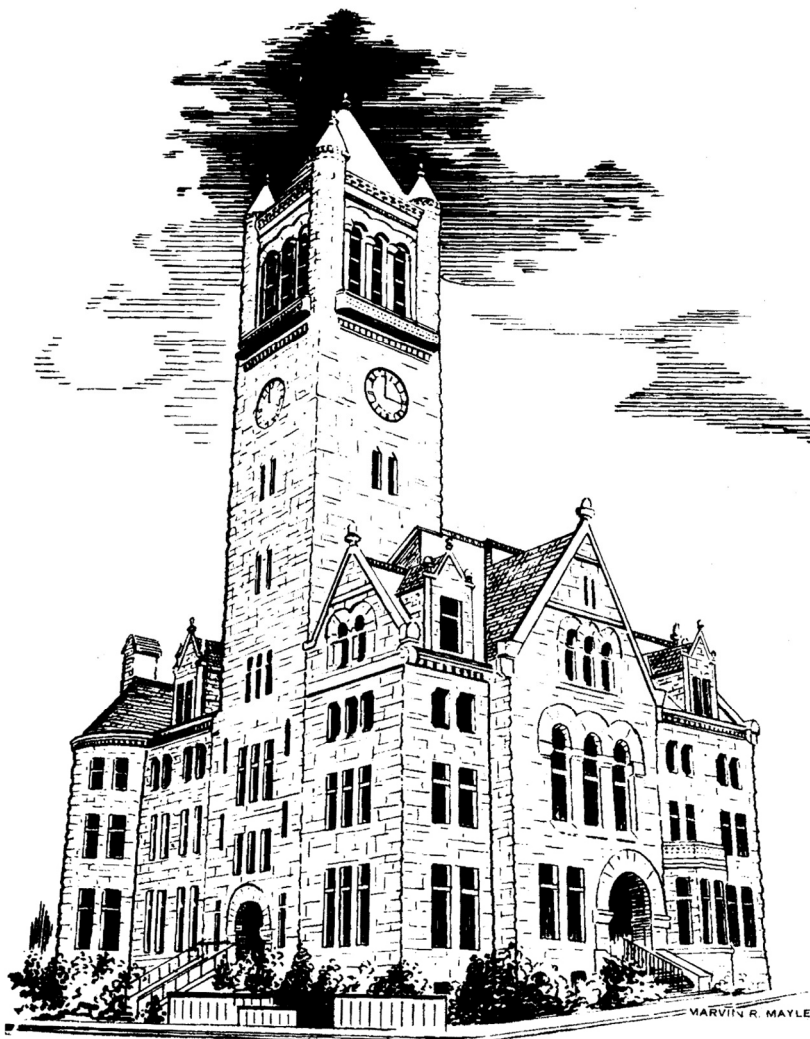


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ESTATE NOTICES

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

JOANNE D. BAUGH, a/k/a JOANNE BAUGH, late of Hopwood, Fayette County, PA
Executrix: Lisa Quarrick ⁽³⁾
 c/o Adams Law Offices, PC
 55 East Church Street, Suite 101
 Uniontown, PA 15401
Attorney: Jason F. Adams

ROBERT C. DETWILER, late of Connellsville, Fayette County, PA ⁽³⁾
Administratrix: Kimberly Genova
 c/o Goodwin Como, P.C.
 108 North Beeson Boulevard, Suite 400
 Uniontown, PA 15401
Attorney: Benjamin Goodwin

ROSE M. FABERY, late of South Union Township, Fayette County, PA ⁽³⁾
Administrator: William F. Fabery, Jr.
 c/o Radcliffe martin Law, LLC
 648 Morgantown Road, Suite B
 Uniontown, PA 15401
Attorney: William M. Martin

ANTHONY E. JOHNSON, late of Uniontown, Fayette County, PA ⁽³⁾
Executrix: Constance M. Johnson
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Gary J. Frankhouser

CHRISTOPHER J. JORDON, a/k/a CHRISTOPHER JOSEPH JORDAN, late of South Union Township, Fayette County, PA ⁽³⁾
Administratrix: Adrienne Jordan-Egnot
 303 Fawn Haven Way

Morgantown, WV 26508
 c/o 4 North Beeson Boulevard
 Uniontown, PA 15401
Attorney: Ewing D. Newcomer

NASSER G. LAVAIE, a/k/a, NASSER GOODARZ LAVAIE, late of Uniontown, Fayette County, PA ⁽³⁾
Executrix: Alexa Lavaie
 c/o Goodwin Como, P.C.
 108 North Beeson Boulevard, Suite 400
 Uniontown, PA 15401
Attorney: Benjamin Goodwin

JEROME SEPER, a/k/a JEROME MICHAEL SEPER, a/k/a JEROME M. SEPER, late of Brownsville, Fayette County, PA ⁽³⁾
Executrix: Lynn Jellots
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

LINDA SUE SEPER, a/k/a LINDA S. SEPER, late of Brownsville, Fayette County, PA ⁽³⁾
Executrix: Lori Sue Rohrer, a/k/a
 Lori Sue Kozup
 c/o Davis & Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. Davis

OWEN K. SILBAUGH, SR., late of Uniontown, Fayette County, PA ⁽³⁾
Administrator: Owen K. Silbaugh, Jr. and Courtney Radcliffe
 c/o Tiberi Law Office
 84 East Main Street
 Uniontown, PA 15401
Attorney: Vincent M. Tiberi

FRANK J. ZADELL, JR., late of Dunbar, Fayette County, PA ⁽³⁾
Personal Representative: John Zadell
 c/o 208 South Arch Street, Suite 2
 Connellsville, PA 15401
Attorney: Richard A. Husband

Second Publication

EUGENE W. COLBORN, a/k/a EUGENE WALTER COLBORN, SR., a/k/a E.W. COLBORN, late of Springfield Township, Fayette County, PA (2)

Personal Representative:

Charles W. Watson
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425

Attorney: Timothy J. Witt

MALCOLM GORDON BALFOUR, a/k/a MALCOLM G. BALFOUR, late of Saltlick Township, Fayette County, PA (2)

Executor: Merle Stutzman

205 Coffman Road
Acme, PA 15610
c/o Moore Becker Smarto & Acosta, P.C.
121 West Second Street
Greensburg, PA 15601

Attorney: Lawrence F. Becker, III

MICHAEL GEORGE MISKANIN, JR., late of Uniontown, Fayette County, PA (2)

Executor: Michael George Miskanin, III

c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401

Attorney: James T. Davis

STEVEN D. RAVENSCROFT, late of Uniontown, Fayette County, PA (2)

Executor: Kevin S. Ravenscroft

c/o Adams Law Offices, PC
55 East Church Street, Suite 10
Uniontown, PA 15401

Attorney: Jason Adams

JOHN EDWARD RODERICK, late of Smithfield, Fayette County, PA (2)

Personal Representative:

Kelley Dawn Wheeler
c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401

Attorney: Gary J. Frankhouser

KENNETH D. SLONECKER, late of Bullskin Township, Fayette County, PA (2)

Executor: Kevin D. Slonecker

c/o Molinaro Law Offices
P.O. Box 799
Connellsville, PA 15425

Attorney: Carmine V. Molinaro, Jr.

First Publication

DIANA MARIE ANTOON, late of Menallen Township, Fayette County, PA (1)

Administrator: Cody Alan Antoon

c/o P.O. Box 953
Uniontown, PA 15401

Attorney: Ricardo J. Cicconi

BAILEY H. BRYNER, late of Braddock Heights, Maryland (1)

Executor: Nelson P. Bryner

c/o 815A Memorial Boulevard
Connellsville, PA 15425

Attorney: Margaret Z. House

DONALD W. CALDWELL, late of Bullskin Township, Fayette County, PA (1)

Co-Administrators: Brian K. Caldwell and Russell Caldwell

c/o Casini & Geigib, LLC
815B Memorial Boulevard
Connellsville, PA 15425

Attorney: Jennifer M. Casini

BETTY J. COLBERT, a/k/a BETTY JEAN COLBERT, late of Dawson Borough, Fayette County, PA (1)

Personal Representative: Patricia A. Lint

c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425

Attorney: Timothy J. Witt

LINDSEY B. WALTERS, III, late of South Union Township, Fayette County, PA (1)

Administrator: Brian S. Walters

c/o Davis & Davis
107 East Main Street
Uniontown, PA 15401

Attorney: Gary J. Frankhouser

LEGAL NOTICES

NOTICE

Notice is hereby given that a Certificate of Organization was filed with the Pennsylvania Department of State, on April 5, 2023, for a Limited Liability Company, organized under the Limited Liability Company Law of 1994. The name of the Company is May's Country Store, LLC.

Attorney Carmine V. Molinaro, Jr.
 MOLINARO LAW OFFICES
 141 West Peach Street
 P.O. Box 799
 Connellsville, PA 15425

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY PENNSYLVANIA
 CIVIL ACTION-LAW

**IN RE: NAME CHANGE OF
 MAVERICK JAMES ANDERSON**

NOTICE

Notice is hereby given that on September 20, 2023, the Petition of Maverick James Anderson was filed with the above-named Court, requesting an order of Court to change the name of Maverick James Anderson to Maverick James Cunningham.

The Court has fixed the day of November 3, 2023, at 11:30 a.m., in Courtroom Number 3 of the Fayette County Courthouse, Uniontown, Pennsylvania, as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the request of the petitioner should not be granted.

John M. Elias, Esquire
 ELIAS LEGAL, PLLC
 45 East Main Street
 Suite 400
 Uniontown, PA 15401

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 ORPHANS' COURT DIVISION
 NO. 55 ADOPT 2023

IN RE: ADOPTION OF
 ARIAN TAYLOR

NOTICE

TO: Jacqueline Taylor

A petition has been filed asking the Court to put an end to all rights you have to your child, Arian Taylor. The court has set a hearing to consider ending your rights to your child. That hearing has been scheduled for **Wednesday, November 15, 2023** at **1:30 p.m.**, and will be held in Courtroom No. 3 of the Fayette County Courthouse, 61 East Main St., Uniontown, Fayette County, Pennsylvania, before the Honorable Linda R. Cordaro. Your presence is required at the hearing. You should contact Fayette County Children and Youth Services or their counsel Anthony S. Dedola Jr., Esq., to obtain a copy of the petition prior to the hearing. **YOU ARE WARNED THAT EVEN IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE HEARING WILL GO ON WITHOUT YOU.**

YOU ARE ALSO NOTIFIED OF THE ACT 101 OF 2010 WHICH ALLOWS FOR AN ENFORCEABLE VOLUNTARY AGREEMENT FOR CONTINUING CONTACT OR COMMUNICATION FOLLOWING AN ADOPTION BETWEEN AN ADOPTIVE PARENT, A CHILD, A BIRTH PARENT, AND/OR A BIRTH RELATIVE OF THE CHILD, IF ALL PARTIES AGREE AND THE WRITTEN VOLUNTARY AGREEMENT IS APPROVED BY THE COURT

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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU HAVE PREVIOUSLY BEEN REPRESENTED BY A LAWYER IN DEPENDENCY COURT PROCEEDINGS, YOUR LAWYER WILL NOT BE AWARE OF THIS HEARING UNLESS YOU CONTACT

YOUR LAWYER. YOU MUST CALL YOUR LAWYER AND INFORM YOUR LAWYER OF THE DATE OF THIS HEARING.

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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IN THE COURT OF COMMON PLEAS OF
FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION
No. 1730 of 2023 G.D.
JUDGE NANCY D. VERNON

DEER LAKE IMPROVEMENT
ASSOCIATION
Plaintiff

vs.

RONALD E. FLEMING, deceased,
R. IAN FLEMING, HEATHER M. SEDNOV
and SHIRELY S. FLEMING, their heirs,
Personal representatives, successors, and
assigns, generally, and all persons, firms, or
associates claiming title or interest from or under
them

Defendants

You are hereby notified that Deer Lake Improvement Association ("DLIA"), having a mailing address of P.O. Box 112, Chalk Hill, Pennsylvania 15421 has filed a complaint at the above number and term in the above-mentioned court in an action to Quiet Title wherein it is alleged that DLIA, its' successors and assigns is the owner of property situate in Wharton Township, Fayette County, Pennsylvania, being known and designated as Lot Nos. 142-143 in Deer Lake Plan No. 1, as recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania, in Plan Book Volume 6, page 149, having a tax map parcel number of 42-12-0046 and more fully described in deed recorded in the Office of the Recorder of Deeds of Fayette County, Pennsylvania in Record Book Volume 3436, page 2247.

Said complaint sets forth that Plaintiff is the owner in fee simple of the above-described

premises. A complaint was filed for the purpose of barring all of your right, title and interest or claim in and to all or a portion of said premises.

You are further hereby notified that in said Quiet Title Complaint, DLIA alleges the mortgage granted by Ronald E. Fleming to Shirley S. Fleming, dated February 7, 1997, and recorded in the Office of the Recorder of Deeds of Fayette County Pennsylvania at Record Book Volume 1988, page 199 is hereby declared to be **PRESUMED** to be **PAID IN FULL** and **SATISFIED**.

NOTICE

You are hereby notified that you have been sued in court. If you wish to defend against the claim 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 if writing with the court your defenses or objections to the claim 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 or 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 NOTICE 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.

**PENNSYLVANIA BAR ASSOCIATION
PENNSYLVANIA LAWYER REFERRAL
100 SOUTH STREET, P.O. BOX 186
HARRISBURG, PA 17108
TELEPHONE: 1-800-932-0311**

James E. Higinbotham, Jr., Esquire
68 South Beeson Avenue
Uniontown, PA 15401
Date: September 13, 2023

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

WILLIAM PRICE,	:	
Plaintiff,	:	
v.	:	
ESTATE OF YVONNE K. PRICE;	:	
LAVERNE WHALEY, Executrix,	:	No. 2307 of 2022 G.D.
Defendants.	:	Honorable Linda R. Cordaro

OPINION AND ORDER

Linda R. Cordaro, J.

July 10, 2023

Before this Court are the Amended Preliminary Objections of Defendants, the Estate of Yvonne K. Price and Laverne Whaley (executrix of the Estate). Defendants raise three objections, each in the form of a motion to strike, as follows: (1) legal insufficiency under Pa.R.Civ.P. 1028(a)(4); (2) lack of jurisdiction and/or improper venue under Pa.R.Civ.P. 1028(a)(1); and (3) failure to exercise or exhaust statutory remedy under Pa.R.Civ.P. 1028(a)(7). After consideration, the Court hereby issues the following Opinion and Order:

FACTUAL AND PROCEDURAL HISTORY

Plaintiff commenced this matter by filing a Complaint on November 30, 2022. In it, he alleged abuse by his deceased sister, Yvonne Price, while he was a minor. The abuse allegedly occurred over a period of months in 1972. He further alleged that the decedent moved away the following year and did not return to Pennsylvania until 2001, when he confronted her about the abuse. According to the Complaint, the decedent agreed to compensate him and pay for mental health treatment, but she moved away shortly afterward and concealed her location from the Plaintiff. He learned of her death on June 22, 2022.

On October 13, 2022, Plaintiff discovered the decedent owned the home at 114 Broad Street in Scottsdale, Pennsylvania, and he learned her North Carolina address. Plaintiff further alleged that his various mental disorder diagnoses and his incarceration for sexual offense against another person resulted from the abuse perpetrated upon him by the decedent.

The Complaint presented claims of (1) sexual assault and battery; (2) negligent infliction of emotional distress; and (3) intentional infliction of emotional distress. Each claim alleged infringement of his civil rights by the decedent and addressed only the decedent's alleged actions. Plaintiffs desired relief included: (1) compensatory damages of \$250,000; (2) punitive damages of \$250,000; (3) attorney fees; (4) a freeze upon the accounts and any estate assets of the decedent until his claims were adjudicated; (5) a preliminary injunction prohibiting the sale of 114 Broad Street.

Plaintiff filed an Amended Complaint on December 7, 2022 and presented the same claims. However, the Amended Complaint eliminated the requests for an account freeze and preliminary injunction, instead requesting "provisional prejudgment attachment" against the Estate property, both real and personal.

Plaintiff filed a Pretrial Statement on December 21, 2022.

Plaintiff filed a Praecipe for Entry of Default Judgment on February 6, 2023 for Defendants' failure to answer. He then filed a Praecipe for Writ of Execution on March 2, 2023.

This Court issued an order on March 3, 2023 striking the default judgment and vacating the writ of execution on the grounds that without record of proper service, jurisdiction was lacking, and the default judgment was void on its face.

Attorney Paul Ellis entered an appearance on behalf of Defendants on March 21, 2023. Plaintiff filed a Petition to Reinstate/Reopen the Judgment on April 5, 2023, with exhibits that included certified mail receipts and copies of returned mail. This Court subsequently issued a Rule to Show Cause as to why Plaintiff was not entitled to relief and, on April 10, 2023, Defendants' counsel responded raising issues of proper service and the lack of merit of the underlying action. This Court subsequently denied Plaintiffs Petition on April 19, 2023.

On May 4, 2023, Defendants filed Preliminary Objections to Plaintiffs Amended Complaint. Plaintiff then filed a Second Amended Complaint on May 26, 2023, while the Preliminary Objections were still under consideration, and this Court dismissed the Preliminary Objections as moot on June 5, 2023.

Plaintiffs Second Amended Complaint included new averments, specifically that the decedent had agreed to compensate him and "to give him the houes [sic] at 114 Broad St, Scottdale;" that the decedent "fled the Commonwealth," and that he took possession and lived in the house until he was incarcerated. Second Amended Complaint at 1. The Second Amended Complaint also provided a list of witnesses and set forth additional and different claims: (1) sexual assault/rape (against decedent); (2) indecent assault (against decedent); (3) intentional infliction of emotional distress (against decedent); (4) malicious abuse of process (against Defendant Whaley); (5) fraud (against Defendant Whaley). The requested relief as set forth in the Second Amended Complaint also increased to include: (1) compensatory damages of \$500,000; (2) punitive damages of \$500,000; (3) costs and fees.

On June 16, 2023, Defendants filed Amended Preliminary Objections to Plaintiffs Second Amended Complaint and presented them for consideration via routine motion on June 28, 2023. On July 3, 2023, Plaintiff filed a response to the Amended Preliminary Objections in which he denied all Defendants' averments, corrected the erroneous statement by Defendants that the decedent was his mother, and asserted that his claims are not frivolous.

DISCUSSION

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).

Preliminary Objections: Legal Insufficiency of a Pleading (Demurrer)
under Pa.R.Civ.P. 1028(a)(4)

Defendants present this objection as a motion to strike on the grounds that the statute of limitations bars recovery, specifically as to the allegations of sexual abuse in 1972. Generally, the statute of limitations defense can be asserted only in a responsive pleading as a new matter under Rule 1030. Pa.R.Civ.P. 1028(a)(4). However, if a party does assert the defense in preliminary objections, the failure of the opposing party to object waives the procedural defect and allows the trial court to rule on the preliminary objections. *Richmond v. McHale*, 35 A.3d 779, 782-83 (Pa. Super. Ct. 2012).

Prior to 2002, 42 Pa.C.S.A. § 5533 did not provide for a statute of limitations with regard to childhood sexual abuse. On August 27, 2002, the statute was amended to provide that an individual was entitled to bring civil action arising from childhood sexual abuse within 12 years after attaining the age of 18. {1} On November 26, 2019, the statute again was amended to extend the limit to 37 years after attaining the age of 18. There is no language in either version that indicates application is retroactive. {2}

Plaintiff commenced this action in November 2022. According to his pleadings, the abuse occurred in 1972, when he was nine (9) years old. Therefore, he reached the age of eighteen (18) in 1981. Even if the statutes were retroactively applied, the statute of limitations expired at the earliest in 1993 (2002 version) and at the latest in 2018 (2019 version). {3}

Furthermore, although Plaintiff referenced 42 Pa.C.S.A. § 5532 (related to a defendant's absence or concealment) in the initial Complaint, the Amended Complaint, and his response to Defendants' Amended Preliminary Objections, this statute cannot be relied upon here. If a plaintiff makes a reasonably diligent effort to find an out-of-state defendant and cannot, then the limitations period will be tolled. *Johnson v. Stuenzi*, 696 A.2d 237, 243 (Pa. Super. Ct. 1997). Even if a plaintiff's efforts fall short of reasonable diligence, then the period of absence still will be tolled "if it is concluded that it is more than likely than not that a reasonably diligent effort would have failed to result in the finding and successful serving of the defendant within ... the limitations period." *Id.* Nevertheless, there must be a balance of interests and individuals should not be subjected to claims so remote in time as to hinder adequate defense. *Id.* at 242.

{1} 42 Pa.C.S.A. § 5533(b)(2)(i).

{2} "No statute shall be construed to be retroactive unless clearly and manifestly so intended by the General Assembly." 1 Pa.C.S.A. § 1926.

{3} As to the claim of intentional infliction of emotional distress, prior to 2002, 42 Pa.C.S.A. § 5524(7) stated, "[a]ny other action ... to recover damages to person ... which is founded on negligent, intentional, or otherwise tortious conduct" must be commenced within two years.

Here, Plaintiff alleges that the decedent concealed her whereabouts to "hinder legal action," but he has pleaded no facts in support of this allegation. He also is silent as to his own efforts: for example, he does not state that he ever attempted legal action prior to November 2022 nor does he state that he made any attempt to ascertain the decedent's whereabouts, let alone what those efforts were.

Defendants' objection therefore is sustained, and the claims of sexual assault, indecent assault, and intentional infliction of emotional distress as against decedent are stricken.

Preliminary Objections: Lack of Jurisdiction and/or Improper Venue
under Pa.R.Civ.P. 1028(a)(1)

Defendants present this objection as a motion to strike on the grounds that the allegations against Defendant Whaley relate solely to administration of the decedent's estate, which was formed in North Carolina, not Pennsylvania. Furthermore, Defendants argue that the allegations only address Defendant Whaley's actions while she resided in North Carolina, and therefore, this Court does not have jurisdiction and venue is improper.

According to Pa.R.Civ.P. 1028(b)(2), preliminary objections that raise an issue under subdivision (a)(1) cannot be determined from facts of record and must be endorsed with a notice to plead or no response will be required under Rule 1029(d). A court may not make a determination based on its view of controverted facts but must resolve an issue of fact through inquiry and by receiving evidence. *Deyarmin v. Consolidated Rail Corp.*, 931 A.2d 1 (Pa. Super. Ct. 2007). In a preliminary objection as to jurisdiction, a court must consider the evidence in a light most favorable to the nonmoving party. *Constantino v. University of Pittsburgh*, 766 A.2d 1265, 1268 (Pa. Super. Ct. 2001). Here, since Plaintiff has filed exhibits and supplemental information in addition to his pleadings, it is possible to decide the issue without further inquiry.

According to Plaintiffs Second Amended Complaint, Defendant Whaley "did maliciously abuse {4} the Probate, Estate and Fiduciaries Code" {5} when she "failed to serve notice of accounting and failed to report the plaintiff as an heir and claimant to title deed to and possession of real property." It also claims fraud for Defendant Whaley's failure to report him as a claimant, allegedly in order to defraud him of property and compensation.

As part of his April 5, 2023 Petition to Reinstate/Reopen Judgment by Default, Plaintiff submitted photocopies of:

- (1) a memorandum dated September 20, 2022 from Attorney Jessica Tarsi of Lanier Fountain & Ceruzzi in Jacksonville, North Carolina addressed to the heirs of Yvonne K. Price;
- (2) a notice of application for letters of administration by Laverne Whaley, dated November 17, 2022, sent from the Clerk of the Superior Court pursuant to North Carolina General Statute 28A-6-2 as to the Estate of Yvonne K. Price;

{4} Under Pennsylvania law, in an action for malicious abuse of process, a defendant files an action in tort against a plaintiff. See *Weiss v. Equibank*, 460 A.2d 271, 276 (Pa. Super. Ct. 1983) (describing both malicious use of process and malicious abuse of process as violations by the plaintiff).

{5} 20 Pa.C.S.A. §§ 101-8815 is titled "Probate, Estates and Fiduciaries Code."

(3) a certificate of service of said notice upon Plaintiff, filed in Onslow County, North Carolina;

(4) an Onslow County "Property Card" purporting to show an address of 201 Market Street, Jacksonville, North Carolina.

Based on information provided by Plaintiff, the Estate originated in North Carolina, it exists there, and Defendant Whaley applied for letters of administration there pursuant to North Carolina law. See N.C.G.S.A. § 28A-1-1 et seq. The clerks of the superior court of North Carolina have jurisdiction of estate proceedings under N.C.G.S.A. §28A-2-4, and, accordingly, North Carolina courts have jurisdiction over an alleged breach of fiduciary duty related to the administration of a North Carolina estate. N.C.G.S.A. §§ 7A-240, 243. Plaintiff's claims against Defendant Laverne Whaley are only in her capacity as executrix of the Estate of Yvonne K. Price. Therefore, Defendants' objection is sustained, and the claims of malicious abuse of process and fraud against Defendant Whaley are stricken.

Preliminary Objections: Failure to Exercise or Exhaust Statutory Remedy
under Pa.R.Civ.P. 1028(a)(7)

An objection that a plaintiff failed to exercise or exhaust a statutory remedy relates to whether there is another statutory avenue by which to pursue relief (e.g. an administrative appeal). See, e.g., *Lashe v. New York Cnty. Sch. Dist.*, 417 A.2d 260 (Pa. Cmwlth. Ct. 1980) (stating that this objection challenges the power of the court to entertain an action when there is an exclusive statutory remedy provided). Here, Defendants argue that Plaintiff failed to timely pursue relief, which is, in effect, a reiteration of the statute of limitations objection already sustained. Regardless, all of Plaintiff's claims have been stricken via other preliminary objections, and so this objection is considered moot.

WHEREFORE, the Court issues the following Order:

ORDER

AND NOW, this 10th of July, 2023, after consideration of Defendants' Preliminary Objections and a review of the record, is hereby ORDERED and DIRECTED that Defendants' objections under Pa.R.Civ.P. 1028(a)(1) and (4) are SUSTAINED. The objection under Pa.R.Civ.P. 1028(a)(7) is DISMISSED AS MOOT.

All of Plaintiff's claims therefore are stricken, and the Second Amended Complaint is DISMISSED WITH PREJUDICE.

BY THE COURT:
Linda R. Cordaro, Judge

ATTEST:
Prothonotary

BENCH BAR CONFERENCE

Fayette County Bar Association Bench Bar Conference
Wednesday, October 18, 2023
 The Historic Summit Inn

AGENDA

8:30 **Meet the Sponsors & Breakfast Buffet**

9:00 **How the Courts have Dramatically Re-Shaped College Sports**
 John P. Gismondi – Gismondi & Associates
 1.5 Substantive CLE Credit

10:30 Break

10:45 **Succession Planning and Other Issues Relating to Experienced Lawyers**
 Thomas J. Farrell, Chief Disciplinary Counsel –
 Disciplinary Board of the Supreme Court of PA
 1.0 Ethics CLE Credit

11:45 **Fayette County Practice and Procedure Discussion**
 President Judge Steve P. Leskinen
 0.5 Substantive CLE Credit

12:30 Lunch Buffet

Fees to Attend

FCBA members - \$85

Non-members of the FCBA - \$135

Attorneys admitted to practice after January 1, 2018 - \$50

RSVP due Wednesday, October 4th
 to Cindy at 724-437-7994 or cindy@fcbar.org

**THANKS
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