

# FAYETTE LEGAL JOURNAL

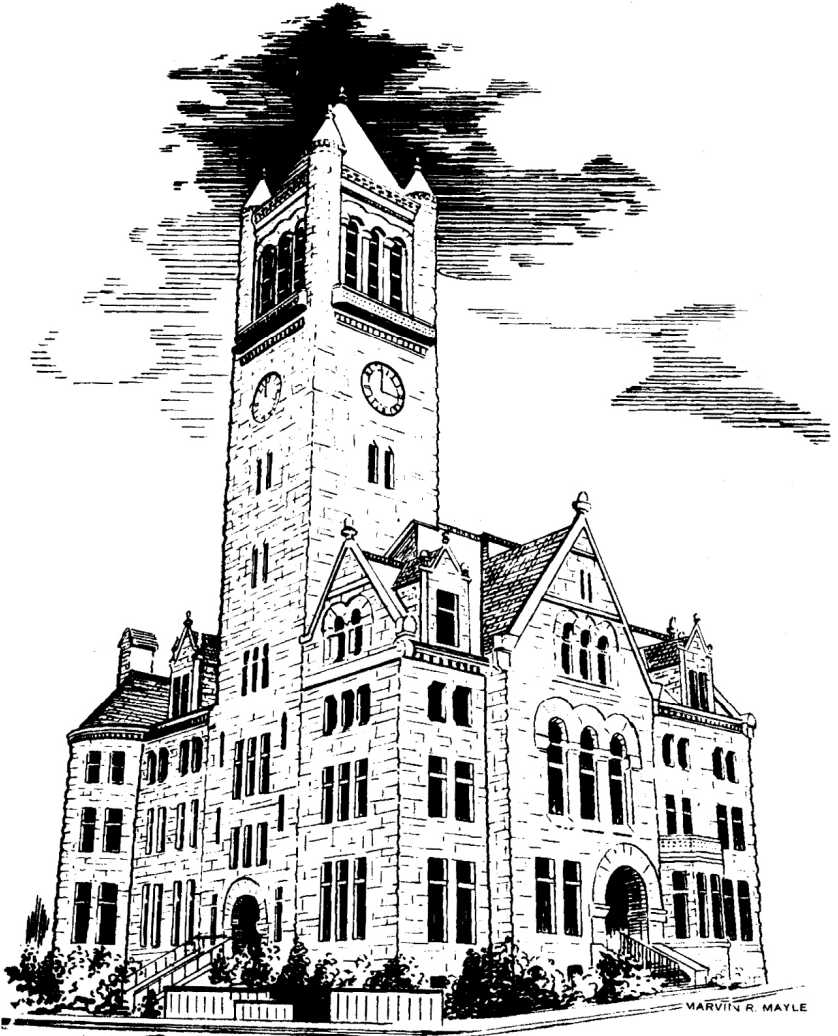
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VOL. 84

MAY 1, 2021

NO. 18

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## FAYETTE LEGAL JOURNAL

The FAYETTE LEGAL JOURNAL is published weekly by the Fayette County Bar Association, 45 East Main Street, Suite 100, Uniontown, Pennsylvania 15401, 724-437-7994. Legal advertisements should be submitted online at [www.fcbar.org](http://www.fcbar.org) no later than 12:00 noon on Friday for publication the following Saturday. No date of publication is promised, however. Legal notices are published exactly as submitted by the advertiser. Copyright 2001 Fayette County Bar Association. All rights reserved.

**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

**ELMER HENCKEL, JR., a/k/a ELMER M. HENCKEL, JR., a/k/a ELMER M.**

**HENCKEL**, late of Gibbon Glade, Fayette County, PA (3)

*Personal Representative:* Sue Ann Henckel  
c/o George & George  
92 East Main Street  
Uniontown, PA 15401  
*Attorney:* Joseph M. George, Sr.

**BEATRICE MAE HISSEM, a/k/a BEATRICE HISSEM**, late of Saltlick Township, Fayette County, PA (3)

*Executrix:* Carol Shreve  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Mark M. Mehalov

**FRANKLIN A. JOHN**, late of Uniontown, Fayette County, PA (3)

*Personal Representative:* Deborah A. Testa  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Samuel J. Davis

**FREDERICK C. MCDOWELL**, late of Uniontown, Fayette County, PA (3)

*Administratrix:* Patricia M. Berardi  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

**ANTHONY P. RADOVICH, JR.**, late of Menallen Township, Fayette County, PA (3)  
*Personal Representative:* Dave Radovich  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda D. Dellarose

**VENICE L. WITHERSPOON, a/k/a VENICE L. YEAGLEY**, late of North Union Township, Fayette County, PA (3)

*Co-Executors:* George P. Yeagley and Glenn A. Yeagley  
c/o Fitzsimmons and Barclay  
55 East Church Street, Suite 102  
Uniontown, PA 15401  
*Attorney:* James N. Fitzsimmons, Jr.

### Second Publication

**ROBERT M. BERISH, SR.**, late of Masontown, Fayette County, PA (2)

*Co-Executors:* Robert M. Berish, Jr. David A. Berish, and Samuel T. Berish  
c/o 9 Court Street  
Uniontown, PA 15401  
*Attorney:* Vincent J. Roskovensky, II

**ERMA JEAN CARROLL**, late of Washington Township, Fayette County, PA (2)

*Co-Executor:* Dennis R. Carroll  
1408 Leeds Avenue  
Monessen, PA 15062  
c/o 1202 West Main Street  
Monongahela, PA 15063  
*Attorney:* James W. Haines, Jr.

**SANDRA KAY KANUCH**, late of Ronco, Fayette County, PA (2)

*Personal Representative:* Shawn Marie Warnick Fisher  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

**MARY ANN KILGORE, a/k/a MARY KILGORE**, late of Menallen Township, Fayette County, PA (2)

*Executrix:* Susan Dzurnak  
c/o Zebley Mehalov & White, P.C.  
18 Mill Street Square  
P.O. Box 2123  
Uniontown, PA 15401  
*Attorney:* Charles O. Zebley, Jr.

**BETTY JEAN LAWSON, a/k/a BETTY J. LAWSON**, late of German Township, Fayette County, PA (2)

*Administrator:* Leonard A. Lawson  
c/o Webster & Webster  
51 East South Street  
Uniontown, PA 15401  
*Attorney:* Webster & Webster

**WENDELL PATTERSON, a/k/a WENDELL HOWARD PATTERSON**, late of South Union Township, Fayette County, PA (2)

*Executor:* Harry E. Doyle  
c/o Goodwin Como, P.C.  
108 North Beeson Boulevard, Suite 400  
Uniontown, PA 15401  
*Attorney:* Benjamin Goodwin

**GREGORY SCHROYER**, late of Connellsville, Fayette County, PA (2)

*Executrix:* Linda S. Schroyer  
1311 Ridge Boulevard  
Connellsville, PA 15425  
c/o Snyder & Snyder  
17 North Diamond Street  
Mount Pleasant, PA 15666  
*Attorney:* Marvin D. Snyder

**WILLIAM W. WILSON**, late of Markleysburg, Fayette County, PA (2)

*Personal Representatives:* Patricia Diane Humbert, Donna M. Dennis and William W. Wilson  
c/o Dellarose Law Office, PLLC  
99 East Main Street, Suite 101  
Uniontown, PA 15401  
*Attorney:* Melinda Deal Dellarose

## First Publication

**BEVERLY ASPINALL, a/k/a BEV ASPINALL**, late of North Union Township, Fayette County, PA (1)

*Administratrix:* Michele D. Swink  
250 Crowe Road  
Acme, PA 15610  
c/o 140 South Main Street #301  
Greensburg, PA 15601  
*Attorney:* John Cochran

**JEFFREY W. BASINGER**, late of Connellsville, Fayette County, PA (1)

*Personal Representative:* Paul Banko  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Gary J. Frankhouser

**EVELYN BUNTING a/k/a EVELYN B. BUNTING**, late of Dunbar Borough, Fayette County, PA (1)

*Personal Representative:*  
Salene Ann Callahan  
c/o Watson Mundorff, LLP  
720 Vanderbilt Road  
Connellsville Pennsylvania 15425  
*Attorney:* Robert A. Gordon

**JOHN WINTHROP BURKLAND, a/k/a JOHN W. BURKLAND**, late of Lemont Furnace, Fayette County, PA (1)

*Administratrix:* Patricia Burkland  
c/o 11 Pittsburgh Street  
Uniontown, PA 15401  
*Attorney:* Thomas W. Shaffer

**LOUIS A. COLETTI**, late of Redstone Township, Fayette County, PA (1)

*Personal Representative:* Joanne Coletti  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* James T. Davis

**LEROY WILSON J. FRANTZ, JR.**, late of Uniontown, Fayette County, PA (1)

*Administrator:* Andrea Frantz  
233 Tryron Drive  
Blairsville, PA 15717  
c/o France, Lint & Associates, P.C.

308 Fallowfield Avenue  
Charleroi, PA 15022  
*Attorney:* David N. Lint

**RICKY E. HULL, a/k/a RICK E. HULL, a/k/a RICKY HULL**, late of Springfield Township, Fayette County, PA <sup>(1)</sup>  
*Executrix:* Martha Richter  
392 Clinton Road  
Normalville, PA 15469  
c/o 201 North Chestnut Street  
P.O. Box 342  
Scottsdale, PA 15683  
*Attorney:* James Lederach

**CHARLES KOZY, JR.**, late of Masontown, Fayette County, PA <sup>(1)</sup>  
*Personal Representative:*  
Charlene Ann DeCarlo  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Michael A. Aubele

**RICHARD JAMES LONG, a/k/a RICHARD J. LONG, a/k/a RICHARD LONG**, late of South Union Township, Fayette County, PA <sup>(1)</sup>  
*Co-Executors:* Daniel A. Long and Linda Gail Collins  
c/o John & John  
96 East Main Street  
Uniontown, PA 15401  
*Attorney:* Simon B. John

**THOMAS H. LUCAS, JR.**, late of North Union Township, Fayette County, PA <sup>(1)</sup>  
*Personal Representative:*  
Thomas H. Lucas, III  
c/o 902 First Street  
P.O. Box 310  
Hiller, PA 15444  
*Attorney:* Herbert G. Mitchell, Jr.

**DENNIS ALLAN ONDREJKO, a/k/a DENNIS ONDREJKO**, late of Washington Township, Fayette County, PA <sup>(1)</sup>  
*Executrix:* Darlene Helen Ondrejko  
921 McClintock Avenue  
Belle Vernon, PA 15012  
c/o Shire Law Firm  
1711 Grand Boulevard Park Centre  
Monessen, PA 15062  
*Attorney:* Mark Shire

**WILLIAM J. TROUT, a/k/a WILLIAM JOSEPH TROUT**, late of Georges Township, Fayette County, PA <sup>(1)</sup>  
*Personal Representative:* Susan Arnold  
c/o Davis & Davis  
107 East Main Street  
Uniontown, PA 15401  
*Attorney:* Jeremy J. Davis

## LEGAL NOTICES

### NOTICE

Notice is hereby given that a Certificate of Amendment was filed with the Pennsylvania Department of State, on March 26, 2018 amending the original Certificate Organization filed April 18, 2017, which Certificate of Amendment changed the name of AR Labor LLC, a Limited Liability Company, organized under the Limited Liability Company Law of 1994, as from time to time amended. The amended name of the Company is to ar remodeling LLC, having an address of 129 E. Coffee Street Uniontown, Pennsylvania 15401.

James E. Higinbotham, Jr., Esq.  
HIGINBOTHAM LAW OFFICES  
45 East Main Street, Suite 500  
Uniontown, PA 15401  
Telephone: 724-437-2800

### NOTICE

Notice is hereby given that Certificate of Organization have been approved and filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on March 10, 2021, for a business known as Justin Swartz Construction Inc.

The purpose or purposes of the corporation is/are: construction, remodeling and related activity and any and all other lawful business for which corporations may be organized under the Business Corporation Law.

DAVIS & DAVIS  
BY: Jeremy J. Davis, Esquire  
107 E. Main Street  
Uniontown, PA 15401

IN RE: Dolfi, Eric M. and Stacey A.  
Case No. 19-21910-CMB, Chapter 13

Real Estate Located at 81 Walnut Street  
Uniontown, Fayette County, PA  
Parcel No. 38-04-0317  
Date of Sale: 5/25/2021 @2:00 p.m.  
A Zoom Video Conference Hearing will be held  
on  
5/25/2021 at 2:00 p.m.  
via the Zoom Video Conference Application.  
To participate in and join a Zoom Hearing,  
please initiate  
and use the following link at least 15 minutes  
prior to the  
scheduled Zoom Hearing time:  
<https://www.zoomgov.com/j/16143800191>,  
or alternatively, you may use the following:  
**Meeting ID: 161 4380 0191.**  
Objections due by: 5/10/2021  
Initial Offer \$ 23,000.00  
Higher and better offers will be  
considered at the hearing  
Hand money required: \$500.00  
(Cash or Certified Funds Only)  
Contact: Robert H. Slone, Esq.  
223 South Maple Avenue  
Greensburg, PA 15601  
Ph# (724) 834-2990  
For more information:  
[www.pawb.uscourts.gov/easi.htm](http://www.pawb.uscourts.gov/easi.htm)

Robert H. Slone, Esquire  
Attorney for Eric M. and Stacey A. Dolfi  
223 South Maple Avenue  
Greensburg, PA 15601  
Ph# (724)834-2990

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IN RE: Dolfi, Eric M. and Stacey A.  
Case No. 19-21910-CMB, Chapter 13

Real Estate Located at 136 N. Gallatin Avenue  
Uniontown, Fayette County, PA  
Parcel No. 38-04-0316  
Date of Sale: 5/25/2021 @2:00 p.m.  
A Zoom Video Conference Hearing will be held  
on  
5/25/2021 at 2:00 p.m.  
via the Zoom Video Conference Application.  
To participate in and join a Zoom Hearing,  
please initiate  
and use the following link at least 15 minutes  
prior to the  
scheduled Zoom Hearing time:  
<https://www.zoomgov.com/j/16143800191>,  
or alternatively, you may use the following:  
**Meeting ID: 161 4380 0191.**  
Objections due by: 5/10/2021  
Initial Offer \$ 315,000.00  
Higher and better offers will be  
considered at the hearing  
Hand money required: \$2,000.00  
(Cash or Certified Funds Only)  
Contact: Robert H. Slone, Esq.  
223 South Maple Avenue  
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Ph# (724) 834-2990  
For more information:  
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Robert H. Slone, Esquire  
Attorney for Eric M. and Stacey A. Dolfi  
223 South Maple Avenue  
Greensburg, PA 15601  
Ph# (724)834-2990

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IN THE COURT OF COMMON PLEAS OF  
FAYETTE COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION  
NO. 4 ADOPT 2021

IN RE: ADOPTION OF  
ARIELLA BYERS

NOTICE

TO: Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Ariella Byers. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 3 before the Honorable Linda R. Cordaro, Fayette County Courthouse, 61 East Main St., Uniontown, Fayette County, Pennsylvania, 15401 on **Wednesday, June 2, 2021 at 9:00 a.m.**

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 THERE

YOU ARE ALSO NOTIFIED OF THE ACT 101 OF 2010 WHICH ALLOS FOR AN ENFORCEABLE VOLUNTARY AGREEMENT FOR CONTINUING CONTACT OR COMMUNICATION FOLLOWING AN ADOPTION BETERERN 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 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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PENNSYLVANIA BAR ASSOCIATION  
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PO BOX 186  
HARRISBURG, PA 17108  
(800) 692-7375

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**Fictitious Name Registration**

Notice is hereby given that an Application for Registration of Fictitious Name was filed in the Department of State of the Commonwealth of Pennsylvania on February 16, 2021 for **Christina's Piano Studio** at 417 Dove Drive Uniontown, PA 15401. The name and address of each individual interested in the business is Christina Beth Agostini at 417 Dove Drive Uniontown, PA 15401. This was filed in accordance with 54 Pa.C.S. 311.417

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**JUDICIAL OPINION**

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

SCOTT RODGERS and JESSICA	:	
HARRISON, individually and as parents	:	
and natural guardians of J.R., a minor,	:	
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
JONATHAN GUERRIERI, SARAH	:	
CONRAD, and PROPERTY	:	
INVESTMENT GROUP, INC.,	:	
	:	No. 1526 of 2020, G.D.
Defendants.	:	Honorable Nancy D. Vernon

**OPINION AND ORDER**

VERNON, J.

April 1, 2021

Before the Court are Preliminary Objection filed by Defendant Property Investment Group, Inc. to the Complaint of Plaintiffs Scott Rodgers and Jessica Harrison, individually and as parents and natural guardians of J.R., a minor.

**FACTUAL BACKGROUND**

This action arises out of a dog bite incident that occurred at 14 Edna Street, Republic, Fayette County, Pennsylvania on March 12, 2020. See, Complaint, ¶ 2, 4. Plaintiffs Scott Rodgers and Jessica Harrison allege that their minor child, J.R., was playing outside with the children of their neighbors, Defendants, Jonathan Guerrieri and Sarah Conrad. Id. at ¶ 8. When the children entered the Defendants’ house, J.R. was chased back outside and attacked by a boxer/pit bull mixed breed dog owned by Defendants Guerrieri and Conrad. Id. at ¶ 9-10. Plaintiffs allege the minor child suffered serious and permanent injuries from the unprovoked dog attack. Id. at ¶ 11-12. Defendants Guerrieri and Conrad rent the premises at 14 Edna Street, Republic from landlord Defendant Property Investment Group, Inc. Id. at ¶ 2-3.

Plaintiffs’ nine-count Complaint alleges three counts of Negligence, Negligence Per Se, and Action for Punitive Damages separately against each defendant. Defendants Guerrieri and Conrad answered the Complaint. As to Defendant Property Investment Group, Inc., Plaintiffs claims include allegations of violations of the Pennsylvania Dog Law, 3 P.S. §459-301, et seq. Property Investment Group filed the within preliminary objections lodging a Connor objection to Plaintiffs’ Paragraph 40(i) and demurrer and move to strike Plaintiffs’ claim for reckless/punitive damages and separate claim for punitive damages.



## STANDARD OF REVIEW

When reviewing preliminary objections in the nature of a demurrer, the court must “accept as true all well-pleaded material facts set forth in the complaint and all inferences fairly deducible from those facts.” *Thierfelder v. Wolfert*, 52 A.3d 1251, 1253 (Pa. 2012). In deciding a demurrer the face of the complaint must indicate that the “claims may not be sustained and that the law will not permit a recovery. If there is any doubt, it should be resolved by the overruling of the demurrer.” *Melon Bank, N.A. v. Fabinyi*, 650 A.2d 895, 899 (Pa. Super. 1994). “Preliminary objections, the end result of which would be dismissal of a cause of action, should be sustained only in cases that are clear and free from doubt.” *Bower v. Bower*, 611 A.2d 181, 182 (Pa. 1992).

## DISCUSSION

Property Investment Group’s first preliminary objection is a motion to strike Paragraph 40(i) of Count VII – Negligence at which Plaintiffs allege:

(i) In being otherwise careless, reckless and negligent, the particulars of which are presently unknown to Plaintiffs but which may be learned by discovery procedures provided by the Pennsylvania Rules of Civil Procedure or which may be learned at the trial of this case.

Property Investment Group contends that Pennsylvania is a fact pleading state and requires the pleading to define the issues and every act or performance essential to the act be set forth in the Complaint. Further, that Pennsylvania Rule of Civil Procedure 1019(a) requires that “material facts on which a cause of action or defense is based, shall be stated in a concise summary form.”

In support of this objection, Property Investment Group argues the applicability of *Connor v. Allegheny General Hospital*, 461 A.2d 600 (Pa. 1983). *Connor* has been used by the Pennsylvania courts to preclude general allegations in complaints. *Connor* stands for the proposition that general averments in a complaint should be remedied by preliminary objections, which operate to have the offending averment stricken and later amended. The court in *Connor* reasoned that this should result in eliminating surprise on the eve of trial.

Plaintiffs defend Paragraph 40(i) requesting this Court to read the paragraph within the context of the entire Complaint. “[I]n determining whether a particular paragraph in a complaint has been stated with the necessary specificity, such paragraph must be read in context with all other allegations in that complaint. Only then can the court determine whether the defendant has been put upon adequate notice of the claim against which he must defend.” *Paz v. Commonwealth, Department of Corrections*, 580 A.2d 452, 456 (Pa. Cmwlth. 1990).

A review of Paragraph 40(i) reveals Plaintiffs lodge no specific allegations of negligence. Paragraph 40(i) is a catch-all provision lacking any factual averments against Property Investment Group. Here, even when the allegations lodged at Paragraph 40(i) of Plaintiffs’ Complaint are examined in their entirety and read in context with all factual averments, the subparagraph fails to provide Property Investment Group adequate

notice of the negligence claims against which it must defend. Accordingly, the preliminary objection is sustained, and Complaint Paragraph 40(i) is stricken.

Next, Property Investment Group objects to Plaintiffs' general allegations of recklessness and moves to strike their separate count for punitive damages titled Count IX – Action for Punitive Damages.

Punitive damages are defined as “damages, other than compensatory or nominal damages, awarded against a person to punish him for his outrageous conduct and to deter him and others like him from similar conduct in the future.” Restatement (Second) of Torts §908(1). Punitive damages are not awarded for mere inadvertence, mistake, errors of judgment and the like, which constitute ordinary negligence. *Id.* at comment (b).

Punitive damages may only be awarded under limited conditions. Pennsylvania has adopted Section 908(2) of the Restatement (Second) of Torts regarding the imposition of punitive damages and permits punitive damages only for conduct that is “outrageous because of the defendant’s evil motives or his reckless indifference to the rights of others.” Restatement (Second) of Torts §908(2); *Feld v. Merriam*, 485 A.2d 742 (Pa. 1984); *Chambers v. Montgomery*, 192 A.2d 355 (Pa. 1963). Punitive damages must be based on malicious, wanton, reckless, willful, or oppressive conduct on the part of the defendant. *Hughes v. Babcock*, 37 A.2d 551, 554 (Pa. 1944).

The proper focus is on “the act itself together with all the circumstances including the motive of the wrongdoer and the relations between the parties [...]” *Chambers*, *supra.*, 192 A.2d at 358. Reckless indifference to the rights of others means that “the actor has intentionally done an act of an unreasonable character, in disregard of a risk known to him or so obvious that he must be taken to have been aware of it, and so great as to make it highly probable that harm would follow.” *Temporaries, Inc. v. Krane*, 472 A.2d 668, 673 (Pa. Super. 1984).

A showing of mere negligence, or even gross negligence, will not suffice to support an award of punitive damages. *Hutchison v. Penske Truck Leasing Co.*, 876 A.2d 978, 983-984 (Pa. Super. 2005). Instead, a punitive damages claim must be supported by evidence sufficient to establish that (1) a defendant had a subjective appreciation of the risk of harm to which the plaintiff was exposed and (2) the defendant acted, or failed to act, in conscious disregard of that risk. *Hutchison ex rel. Hutchison v. Luddy*, 870 A.2d 766 (Pa. 2005).

“Typically, in negligence actions arising from the conduct of animals, the animal’s owner is the person responsible for injuries to others caused by his or her pet.” *Rosenberry v. Evans*, 48 A.3d 1255, 1258 (Pa. Super. 2012). In *Palermo v. Palermo v. Nails*, 483 A.2d 871 (Pa. Super. 1984), an appellate court addressed “for the first time in Pennsylvania, the question of whether a landlord out of possession owes a duty of care to his tenant’s invitees to prevent injury from a vicious animal kept by the tenant on the leased premises.” *Id.* at 872.

“Generally, a landlord out of possession is not responsible for attacks by animals kept by his tenant on leased premises where the tenant has exclusive control over such

premises. However, a landlord out of possession may be held liable for injuries by animals owned and maintained by his tenant where the landlord has knowledge of the presence of the dangerous animal and where he has the right to control or remove the animal by retaking possession of the premises.” *McMahon v. Pleasant Valley W. Ass’n*, 952 A.2d 731, 736 (Pa. Commw. Ct. 2008) quoting *Palermo*, supra. Pennsylvania law does not recognize a presumption that specific breeds of dogs, such as pit bulls, are dangerous or have dangerous propensities. *Franciscus v. Sevdik*, 135 A.3d 1092, 1096 (Pa. Super. 2016).

In the Complaint, Plaintiffs have pled that Property Investment Group permitted the renters to keep a danger, mischievous and aggressive dog on its property, failed to ensure the dog would not endanger others, permitted the renters to keep the dog, failed to request to remove the dog, failed to evict the renters due to the dog being kept on the premises, failed to exercise due care under the circumstances, allowed a tenant to breach the requirements of the Pennsylvania Dog Law, and allowed the renters to harbor a dangerous dog.

Preliminary objections should be sustained only in cases that are clear and free from doubt. *Baker v. Brennan*, 213 A.2d 362, 364 (Pa. 1965). These allegations in the Complaint are sufficient, at this stage in the proceedings, to assert a conduct that could be outrageous or reckless, that could support a claim for punitive damages against Property Investment Group. Thus, the preliminary objection must be overruled. Once discovery has been completed, Property Investment Group may renew its request to strike the punitive damages claim via a motion for summary judgment should Plaintiffs’ evidence fail to meet the appropriate legal standard.

The Court does agree, however, that the listing of punitive damages as a separate count is technically improper since punitive damages are not a separate cause of action. It is well settled that “[a] request for punitive damages does not constitute a cause of action in and of itself,” and “is merely incidental to a cause of action.” *Weston v. Northampton Pers. Care, Inc.*, 62 A.3d 947, 961 (Pa. Super. 2013). Finding this to be a technical error, the preliminary objection is sustained, Count IX – Action for Punitive Damages is stricken, and Plaintiffs are permitted to file an Amended Complaint setting forth any claim for punitive damages within their other causes of action in accordance with this decision.

WHEREFORE, we will enter the following Order.

ORDER

AND NOW, this 1st day of April, 2021, upon consideration of the Preliminary Objection filed by Defendant Property Investment Group, Inc. to the Complaint of Plaintiffs Scott Rodgers and Jessica Harrison, individually and as parents and natural guardians of J.R., a minor, it is hereby ORDERED and DECREED that:

1. the first preliminary objection is sustained and Complaint Paragraph 40(i) is stricken;
2. the second preliminary objection to strike Plaintiff's clam for reckless/punitive damages is overruled;
3. the third preliminary objection to strike Plaintiff's separate claim for punitive damages is sustained and Plaintiffs are provided thirty days to file an Amended Complaint in accordance with the foregoing Opinion.

BY THE COURT:  
NANCY D. VERNON, JUDGE

ATTEST:  
Prothonotary

## **WARMAN ABSTRACT & RESEARCH LLC**

**JOHN F. WARMAN**

**518 Madison Drive**

**Smithfield, PA 15478**

**724-322-6529**

**johnfranciswarman@gmail.com**

**COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE**

**A DECADE OF EXPERIENCE**

**E&O INSURED**

**WILL TRAVEL**

**ACCEPTING NEW CLIENTS**

## LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Tuesday, May 11th** from 12:00 p.m. to 2:00 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **PACFile for Attorneys**
- Presenters: Dave McDonald, Administrative Office of Pennsylvania Courts

### **CLE Credit**

2.0 hours of Substantive CLE credit for the program. The fees are as follows:

#### Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

#### Attorneys admitted to practice in Pennsylvania after January 1, 2016

- No charge for attendance with CLE Credit

#### Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**\*\* All fees to be paid at the door \*\***

A light lunch will be provided.

### **RSVP**

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to [cindy@fcbar.org](mailto:cindy@fcbar.org) on or before Monday, May 10th.

## LUNCH & LEARN SERIES

The Fayette County Bar Association's next presentation in its Lunch & Learn Series will be:

- Date: **Wednesday, May 19th** from 12:00 p.m. to 1:30 p.m.
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **Searches & Seizures**
- Presenters: Richard Bower, Fayette County District Attorney, Susan Harper, Fayette County Public Defender, and the Honorable Judge Steve P. Leskinen

### **CLE Credit**

1.5 hours of Substantive CLE credit for the program. The fees are as follows:

#### Members of the FCBA

- No charge for attendance without CLE Credit
- \$10 fee for attendance with CLE Credit

#### Attorneys admitted to practice in Pennsylvania after January 1, 2016

- No charge for attendance with CLE Credit

#### Non-members of the FCBA

- \$10 fee for attendance without CLE Credit
- \$40 fee for attendance with CLE Credit

**\*\* All fees to be paid at the door \*\***

A light lunch will be provided.

### **RSVP**

If interested in attending, please call Cindy at the Bar office at 724-437-7994 or by email to [cindy@fcbbar.org](mailto:cindy@fcbbar.org) on or before Monday, May 17th.

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