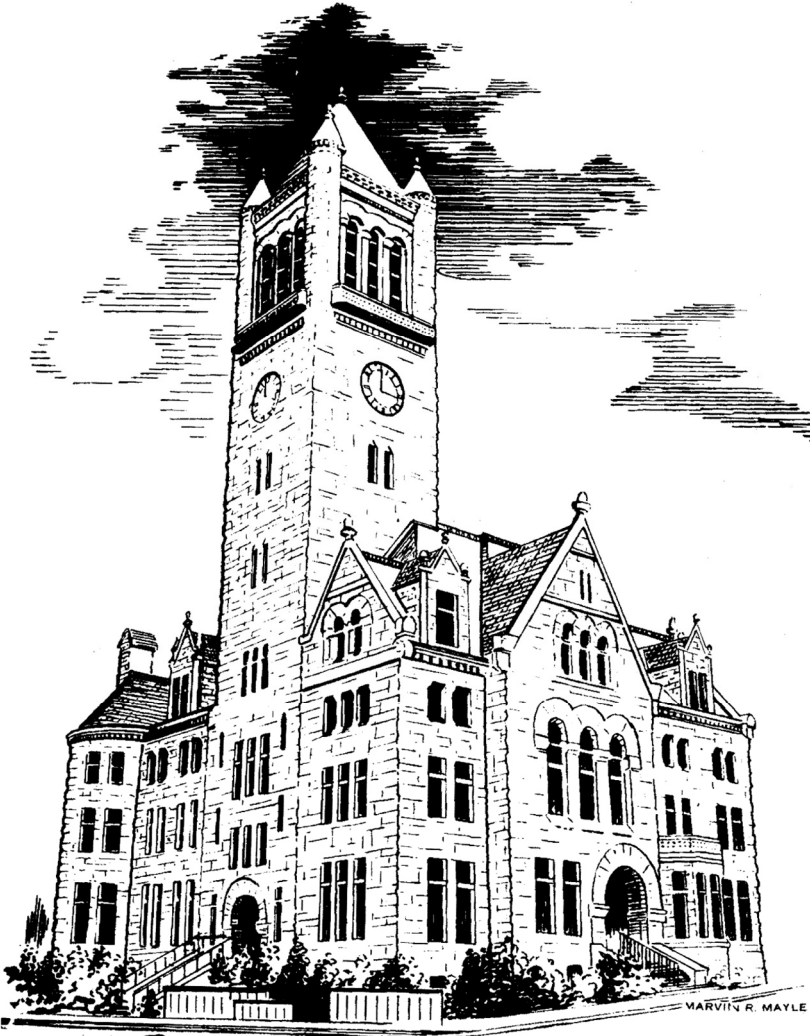


FAYETTE LEGAL JOURNAL

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FAYETTE LEGAL JOURNAL

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The Ethics Hotline provides free advisory opinions to PBA members based upon review of a member's prospective conduct by members of the PBA Committee on Legal Ethics and Professional Responsibility. The committee responds to requests regarding the impact of the provisions of the Rules of Professional Conduct or the Code of Judicial Conduct upon the inquiring member's proposed activity. All inquiries are confidential.

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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

ANTHONY S. BOLLIBON, JR., late of Dunbar Township, Fayette County, PA ⁽³⁾

Executrix: Lisa Ann Hughes
c/o Fitzsimmons and Barclay
55 East Church Street, Suite 102
Uniontown, PA 15401
Attorney: James N. Fitzsimmons, Jr.

WILLIAM A. CAPTAIN, late of Jefferson Township, Fayette County, PA ⁽³⁾

Executor: William B. Captain
126 Troytown
Fayette City, PA 15438
c/o P.O. Box 1388
Uniontown, PA 15401
Attorney: James Natale

PEGGY L. CARINGOLA, a/k/a PEGGY LILIAN CARINGOLA, late of Grindstone, Fayette County, PA ⁽³⁾

Executor: Ricci L. Caringola
10 South Oak Street
Fairchance, PA 15136
c/o Tershel & Associates
Helena Professional Building
55 South Main Street
Washington, PA 15301
Attorney: Jarrod T. Takah

WILLIAM FREDERCK CLEMMER, late of Point Marion, Fayette County, PA ⁽³⁾

Administrator: Sidney Ann Clemmer
c/o P.O. Box 622
Smithfield, PA 15478
Attorney: Charity Grimm Krupa

PATRICIA CROWLEY, late of Uniontown, Fayette County, PA ⁽³⁾

Administratrix: Cheryl Slampak
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Anthony S. Dedola, Jr.

ELAINE C. MASCIOLI, late of Dunbar Township, Fayette County, PA ⁽³⁾

Co-Executors: Terry L. Mascioli and Lynnlee A. Mascioli
c/o Molinaro Law Offices
141 West Peach Street
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

SALLY S. NUDO, late of Connellsville, Fayette County, PA ⁽³⁾

Executor: James R. Nudo
c/o Molinaro Law Offices
141 West Peach Street
P.O. Box 799
Connellsville, PA 15425
Attorney: Carmine V. Molinaro, Jr.

GERALD EUGENE PETCHENY, late of Masontown, Fayette County, PA ⁽³⁾

Administrator: David Wingard
c/o 9 Court Street
Uniontown, PA 15401
Attorney: Vincent J. Roskovensky, II

MARCELLA S. SCHWENK, a/k/a MARCELLA SCHWENK, a/k/a MARCELA SCHENK, late of Perryopolis, Fayette County, PA ⁽³⁾

Personal Representatives: Sharon Kitta and Robert D. Schwenk
P.O. Box 712
Perryopolis, PA 15473
c/o Davis and Davis
107 East Main Street
Uniontown, PA 15401
Attorney: Gary J. Frankhouser

Second Publication

DOUGLAS A. CINDRIC, late of North Union Township, Fayette County, PA (2)

Executors: Gregory J. Cindric and Donna K. Mathianas
c/o DeHaas Law, LLC
51 East South Street
Uniontown, Pa 15401
Attorney: Ernest P. DeHaas, III

RUTH COMER, late of Uniontown, Fayette County, PA (2)

Administratrix: Denise Boley
c/o Anderson & Labovitz, LLC
429 Fourth Avenue, Suite 602
Pittsburgh, PA 15219
Attorney: Adam Anderson

ELVA E. CONROY, a/k/a ELVA EVELYNN CONROY, a/k/a ELVA CONROY, late of Uniontown, Fayette County, PA (2)

Personal Representative:
Tammie R. Pheasant
c/o Dellarose Law Office, PLLC
99 East Main Street, Suite 101
Uniontown, PA 15401
Attorney: Melinda Deal Dellarose

WILLIAM F. FARRELL, late of Connellsville, Fayette County, PA (2)

Personal Representative:
Melissa Ann Farrell
c/o Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville, PA 15425
Attorney: Robert A. Gordon

IVY GARLETTS, late of Dunbar, Fayette County, PA (2)

Administrator: Ricky A. Garletts
229 Furnace Hill Road
Dunbar, PA 15431
c/o Snyder & Snyder
17 North Diamond Street
Mt. Pleasant, PA 15666
Attorney: Marvin Snyder

SUSAN LAIRD, a/k/a SUSAN MARY LAIRD, late of North Union Township, Fayette County, PA (2)

Executrix: Wendy Schiffbauer
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

ROBERT MARTIN, late of Saltlick Township, Fayette County, PA (2)

Administratrix: Veronica Martin
1164 Indian Creek Valley Road
Indian Head, PA 15446
c/o Schimizzi Law, LLC
35 West Pittsburgh Street
Greensburg, PA 15601
Attorney: Richard Schimizzi

ANTHONY LOUIS ROSSO, late of New Salem, Fayette County, PA (2)

Administrator: Anthony Louis Rosso, Jr.
c/o 11 Pittsburgh Street
Uniontown, PA 15401
Attorney: Thomas W. Shaffer

LARRY SERRATTA, SR., a/k/a LAWRENCE SERRATTA, late of Fayette County, PA (2)

Administratrix: Jayette Serratta
c/o Anderson & Labovitz, LLC
429 Fourth Avenue, Suite 602
Pittsburgh, PA 15219
Attorney: Caleb Dunn

LAWRENCE WALATKA, a/k/a LAWRENCE MILLER WALATKA, late of Newell, Fayette County, PA (2)

Executor: James Aglio, Jr.
P.O. Box 287
Newell, PA 15466
c/o 1747 Rostraver Road
Belle Vernon, PA 15012
Attorney: Megan A. Kerns

JILL M. WILSON, a/k/a JILL MARIE WILSON, late of Brownsville Township, Fayette County, PA (2)

Personal Representatives: Hayley Godfrey and Jordan Bohna
505 Weddell Drive
Rostraver Township, PA 15012
c/o Davis and Davis
107 East Main Street

Uniontown, PA 15401
Attorney: James T. Davis

KENNETH M. WILSON, late of Brownsville Township, Fayette County, PA (2)
Personal Representatives: Hayley Godfrey and Jordan Bohna
 505 Weddell Drive
 Rostraver Township, PA 15012
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: James T. T. Davis

DANIEL ANDREW ZAVORA, late of Uniontown, Fayette County, PA (2)
Administratrix: Roberta Z. Neubauer
 c/o 51 East South Street
 Uniontown, PA 15401
Attorney: Webster & Webster

JOHN ZIAK, JR., late of Wickhaven, Fayette County, PA (2)
Executrix: Kathleen Lowe
 15 Oyster Point
 Warren, Rhode Island 02885
 c/o 231 South Main Street, Suite 406
 Greensburg, PA 15601
Attorney: William Wiker

First Publication

MARGARET K. CONN, late of Uniontown, Fayette County, PA (1)
Personal Representative:
 James Harold Moody
 c/o P.O. Box 953
 Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

LINDA DELEONIBUS, late of South Union Township, Fayette County, PA (1)
Personal Representative:
 Donald W. Santore
 c/o Higinbotham Law Offices
 68 South Beeson Boulevard
 Uniontown, PA 15401
Attorney: James Higinbotham

VINCENT FRANGIPANI, a/k/a VINCENT T. FRANGIPANI, late of North Union Township, Fayette County, PA (1)
Executrix: Anna M. Coleman
 c/o Weisel, Xides & Foerster, LLP
 429 Fourth Avenue, Suite 1201
 Pittsburgh, PA 15219
Attorney: Charles E. Foerster

LARRY W. HAWKINS, SR., late of Redstone Township, Fayette County, PA (1)
Personal Representative:
 Dorothy Kay Polivka
 1255 Gary Boulevard
 Brunswick, Ohio 44212
 c/o Davis and Davis
 107 East Main Street
 Uniontown, PA 15401
Attorney: Samuel J. Davis

JEAN T. LILLEY, a/k/a JEAN LILLEY, late of Masontown, Fayette County, PA (1)
Executor: Robin Lilley
 346 West Church Avenue, Ext.
 Masontown, PA 15461
 c/o 76 East Main Street
 Uniontown, PA 15401
Attorney: Douglas S. Sholtis

MARTHA A. MEGO, late of North Union Township, Fayette County, PA (1)
Administrator: Marguerite Phelan DeHanis
 281 Bethelboro Road
 Uniontown, PA 15401
 c/o 3950 William Penn Highway, Suite 5
 Murrysville, PA 15668
Attorney: John W. Ament

ANGELO F. PILLA, a/k/a ANGELO PILLA, a/k/a FRANK PILLA, late of Connellsville, Fayette County, PA (1)
Executor: Shawn M. Pilla
 c/o Donald McCue Law Firm, P.C.
 Colonial Law Building
 813 Blackstone Road
 Connellsville, PA 15425
Attorney: Donald J. McCue

SUSAN FAYE ROUNTREE, late of Fayette
City, Fayette County, PA (1)

Personal Representative: Joshua T. Weaver
211 Municipal Drive
Rostraver TWP, PA 15012
c/o P.O. Box 488
California, PA 15419
Attorney: Lisa J. Buday

JAMES R. SILEO, late of Uniontown, Fayette
County, PA (1)

Executor: James J. Sileo
c/o 51 East South Street
Uniontown, PA 15401
Attorney: Webster & Webster

INA DELL TEETS, late of Uniontown, Fayette
County, PA (1)

Personal Representative:
Linda G. McDuffie
c/o P.O. Box 953
Uniontown, PA 15401
Attorney: Ricardo J. Cicconi

**EDWARD S. WILCOX, a/k/a EDWARD
SAMUEL WILCOX**, late of Uniontown,
Fayette County, PA (1)

Personal Representative: Nancy J. Wilcox
c/o Higinbotham Law Offices
68 South Beeson Boulevard
Uniontown, PA 15401
Attorney: James Higinbotham

LEGAL NOTICES

NOTICE

NOTICE is hereby given pursuant to the provisions of Act 295 of December 16, 1982, P.L. 1309, that a Certificate was filed in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about April 7, 2022, to conduct a business in Fayette County, Pennsylvania, under the assumed or fictitious name of Gabbie Grace Catering with the principal place of business at: 510 West Crawford Avenue, Connellsville, Fayette County, PA, 15425.

The name or names and addresses of persons owning and interested are: GNVA, LLC, 510 West Crawford Avenue, Connellsville, Fayette County, PA 15425

Shane Gannon, Esquire
Watson Mundorff, LLP
720 Vanderbilt Road
Connellsville Pennsylvania 15425

NOTICE

Notice is hereby given that Articles of Incorporation – For Profit have been approved and filed with the Department of State of the Commonwealth of Pennsylvania on March 30, 2022, for a corporation known as Ron’s Bon Bons, Inc. Said corporation has been organized under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania. The purpose or purposes of the corporation is/are the production and sale of unique confections and any other lawful purpose related thereto for which the corporation may be organized under the Business Corporation Law.

Ralph K. Barclay, Jr.
Fitzsimmons and Barclay
55 East Church St.
Suite 102
Uniontown, PA 15401

IN THE COURT OF COMMON PLEAS OF
 FAYETTE COUNTY, PENNSYLVANIA
 ORPHANS' COURT DIVISION
 NO.17 ADOPT 2022

IN RE: ADOPTION OF
 GENESIS FORD

NOTICE

TO: Patricia Proctor and Unknown Father

A petition has been filed asking the Court to put an end to all rights you have to your child, Genesis Ford. The court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 4 of the Fayette County Courthouse, Uniontown, Fayette County, Pennsylvania, on **Thursday, June 2, 2022 at 1:30 p.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 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.

PENNSYLVANIA LAWYER
 REFERRAL SERVICE
 PENNSYLVANIA BAR ASSOCIATION
 100 SOUTH STREET, PO BOX 186
 HARRISBURG, PA 17108
 (800) 692-7375

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 January 21, 2022 for **K & J Ranch** at 2050 Mill Rd. Dawson, PA 15428. The name and address of each individual interested in the business is Kayla Altman at 2050 Mill Rd. Dawson, PA 15428. This was filed in accordance with 54 Pa.C.S. 311.417

IN THE COURT OF COMMON PLEAS
 Fayette COUNTY
 CIVIL ACTION - LAW
 ACTION OF MORTGAGE FORECLOSURE
 Term No. 2019-02186 / 104of2021ED
 NOTICE OF ACTION IN MORTGAGE
 FORECLOSURE
 PNC BANK, NATIONAL ASSOCIATION
 Plaintiff
 vs.
 JOSEPH A. SHAY
 Mortgagor and Real Owner
 Defendant

NOTICE TO: **JOSEPH A. SHAY**

THIS LAW FIRM IS A DEBT COLLECTOR AND WE ARE ATTEMPTING TO COLLECT A DEBT. THIS NOTICE IS SENT TO YOU IN AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED FROM YOU WILL BE USED FOR THAT PURPOSE.

NOTICE OF SHERIFF'S SALE OF REAL PROPERTY

Your house at 170 Easy Street, Uniontown, PA 15401 is scheduled to be sold at Sheriff's Sale on Thursday, July 21, 2022, at 2:00 PM, in Sheriff's Office Courthouse Uniontown PA to enforce the court judgment of \$55,811.93 obtained by PNC BANK, NATIONAL ASSOCIATION against you.

NOTICE

If you wish to defend, you must take action, by entering a written appearance personally or by attorney and filing 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 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. 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.

PENNSYLVANIA LAWYER REFERRAL SERVICE
Pennsylvania Bar Association
100 South Street, PO Box 186
Harrisburg, PA 17108
800-692-7375

Michael T. McKeever
Attorney for Plaintiff
KML Law Group, P.C., PC
Suite 5000, BNY Independence Center
701 Market Street
Philadelphia, PA 19106-1532
215-627-1322

CIVIL ACTION
COURT OF COMMON PLEAS
FAYETTE COUNTY, PA

CIVIL ACTION-LAW
NO. 503-2022-GD
NOTICE OF ACTION IN MORTGAGE
FORECLOSURE

PHH MORTGAGE CORPORATION, Plaintiff
v.
TOMMY MAUST, IN HIS CAPACITY AS
HEIR OF CAROL L. MAUST; Et al.,
Defendants

To: UNKNOWN HEIRS, SUCCESSORS,
ASSIGNS AND ALL PERSONS, FIRMS OR
ASSOCIATIONS CLAIMING RIGHT, TITLE
OR INTEREST FROM OR UNDER CAROL L.
MAUST Defendant(s), 188 BURGESS FIELD
ROAD, UNIONTOWN, PA 15401

COMPLAINT IN MORTGAGE
FORECLOSURE

You are hereby notified that Plaintiff, PHH MORTGAGE CORPORATION, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of FAYETTE County, PA docketed to No. 503-2022-GD, seeking to foreclose the mortgage secured on your property

located, 188 BURGESS FIELD RD UNIONTOWN, PA 15401.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in this notice you must take action within twenty (20) days after the Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, 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 THE INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Pennsylvania Lawyer Referral Service
Pennsylvania Bar Association
100 South Street
P.O. Box 186
Harrisburg PA, 17108
800-692-7375

Robertson, Anschutz, Schneid, Crane & Partners, PLLC
A Florida professional limited liability company
ATTORNEYS FOR PLAINTIFF
Jenine Davey, Esquire, Esq. ID No. 87077
133 Gaither Drive, Suite F
Mt. Laurel, NJ 08054
855-225-6906

SHERIFF'S SALE

By virtue of the below stated writs out of the Court of Common Pleas of Fayette County, Pennsylvania, the following described properties will be exposed to sale by James Custer, Sheriff of Fayette County, Pennsylvania on Thursday, July 21, 2022, at 2:00 p.m. in Courtroom Number Four at the Fayette County Courthouse, Uniontown, Pennsylvania.

The terms of sale are as follows:

Ten percent of the purchase price, or a sufficient amount to pay all costs if the ten percent is not enough for that purpose. Same must be paid to the Sheriff at the time the property is struck off and the balance of the purchase money is due before twelve o'clock noon on the fourth day thereafter. Otherwise, the property may be resold without further notice at the risk and expense of the person to whom it is struck off at this sale who in case of deficiency in the price bid at any resale will be required to make good the same. Should the bidder fail to comply with conditions of sale money deposited by him at the time the property is struck off shall be forfeited and applied to the cost and judgments. All payments must be made in cash or by certified check. The schedule of distribution will be filed the third Tuesday after date of sale. If no petition has been filed to set aside the sale within 10 days, the Sheriff will execute and acknowledge before the Prothonotary a deed to the property sold. (2 of 3)

James Custer
Sheriff Of Fayette County

Richard M. Squire & Associates, LLC
M. Troy Freedman, Esquire
ID. Nos. 85165

One Jenkintown Station, Suite 104
115 West Avenue
Jenkintown, PA 19046
Telephone: 215-886-8790
Fax: 215-886-8791

No. 2228 of 2020, G.D.
No. 70 of 2022 E.D.

PMIT REI 2021-A LLC

PLAINTIFF

v.

**Yolanda Cooper aka Yolanda DiMatteo aka
Yolanda Burke
DEFENDANT**

TAX PARCEL NO.: 25-16-0131-01
PROPERTY ADDRESS: 116 Hill Street,
Lemont Furnace, PA 15456

IMPROVEMENTS: Single Family
Dwelling

SEIZED AND TAKEN in execution as the
property of Yolanda Cooper aka Yolanda
DiMatteo aka Yolanda Burke

PARCEL NO. 25-16-0131-01
BEING Known As 116 Hill Street, Lemont
Furnace, PA 15456

BEING the same James Dimatteo and
Yolanda Diamatteo, his wife, n/k/a Yolanda
Burke dated 07/10/2006 and recorded
07/11/2006 in the Office of Recorder of Deeds
in the County of Fayette, Commonwealth of
Pennsylvania in Deed Book 2993, Page 113
granted and conveyed Yolanda Burke.

ROMANO, GARUBO & ARGENTIERI

Counselors at Law LLC
52 Newton Avenue, P.O. Box 456
Woodbury, NJ 08096
(856) 384-1515

No. 890 of 2021, G.D.
No. 67 of 2022 E.D.

**TO THE SHERIFF OF FAYETTE
COUNTY:**

As the attorney for the Plaintiff, in the
matter of **U.S. Bank National Association, not
in its individual capacity but solely as trustee
for the RMAC Trust, Series 2016-CTT vs.
Estate of George E. Novotny, deceased, last
record owner/ mortgagor; Unknown heirs,
devises and personal representatives of
George E. Novotny, deceased and his, her,**

their or any of their successors in right, title and interest; Debra Novotny, known heir of George E. Novotny; Michael Novotny, known heir of George E. Novotny; The United States of America, I submit the following information with the request that it be used FOR ADVERTISEMENT PURPOSES.

No. 890 of 2021 GD

ALL THAT CERTAIN tract of land situate in Redstone Township, Fayette County, Pennsylvania

BEING Tax ID No: 30-04-0205

BEING Known As: 118 Simpson Road, Brownsville, PA 15417

TITLE TO SAID PREMISES IS VESTED IN George E. Novotny and Jean K. Novotny, his wife, from Ora Mae Edwards, widow, by Deed dated October 23, 1957, and recorded on October 23, 1957 in Book 888, Page 483.

Sold as the property of Estate of George E. Novotny, deceased, last record owner/mortgagor

KML LAW GROUP, P.C.

Suite 5000

701 Market Street

Philadelphia, PA 19106-1532

(215) 627-1322

No. 95 of 2020, G.D.

No. 68 of 2022 E.D.

LAKEVIEW LOAN SERVICING, LLC

4425 Ponce DeLeon Blvd

Mail Stop Ms5/251

Coral Gables, FL 33146

Plaintiff

vs.

GEORGE E. GASTER

Mortgagor(s) and Record Owner(s)

138 Woodside Oldframe Road

Smithfield, PA 15478

Defendant(s)

ALL THAT CERTAIN LOT OF LAND SITUATE IN NICHOLSON TOWNSHIP, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 138 WOODSIDE OLDFRAME ROAD, SMITHFIELD, PA 15478

TAX PARCEL #24-12-008701

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: GEORGE E. GASTER

ATTORNEY: KML LAW GROUP, P.C.

Attorneys for Plaintiff

Brock & Scott, PLLC

No. 166 of 2020, G.D.

No. 35 of 2022 E.D.

FREEDOM MORTGAGE CORPORATION

v.

JUSTIN A. HIMES A/K/A JUSTIN HIMES

By virtue of a Writ of Execution No. 166 OF 2020 GD FREEDOM MORTGAGE CORPORATION v. JUSTIN A. HIMES AIKJA JUSTIN HIMES owner(s) of property situate in the TOWNSHIP OF BULLSKIN, FAYETTE County, Pennsylvania, being 622 ENGLISHMAN HILL, CONNELLSVILLE, PA 15425

Tax ID No. 04-29-0170

Improvements thereon: RESIDENTIAL DWELLING Judgment Amount: \$153,194.91

ANNE N. JOHN Esq.

ATTORNEY AT LAW

No. 404 of 2022, G.D.

No. 91 of 2022 E.D.

FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF GREENE COUNTY, a corporation,

Plaintiff

vs.

TONYA M. HIXON,

Defendant

ALL that certain lot or parcel of land situated and lying in the Borough of Smithfield, Fayette County, Pennsylvania, CONTAINING six thousand(6,000) square feet, more or less.

FOR prior title see Record Book 2759, page 199

Tax Parcel No.: 32-06-0033

Upon which is erected an aluminum/vinyl dwelling known as 5 Moser Way, Smithfield, PA 15478.

Hladik, Onorato & Federman, LLP
 298 Wissahickon Avenue
 North Wales, PA 19454

No. 178 of 2016, G.D.
 No. 43 of 2022 E.D.

NewRez LLC d/b/a Shellpoint Mortgage Servicing (Plaintiff)
 vs.
Timothy R. Jennings, (Defendant)

By virtue of Writ of Execution No. 2016-00178

NewRez LLC d/b/a Shellpoint Mortgage Servicing (Plaintiff) vs. Timothy R. Jennings, (Defendant)

Property Address 162 North 10th Street. Connellsville, PA 15425

Parcel I.D. No. 05-08-0082

Improvements thereon consist of a residential dwelling.

Judgment Amount: \$78,614.58

STERN & EISENBERG PC
 JESSICA N. MANIS, ESQUIRE

No. 1980 of 2020, G.D.
 No. 42 of 2022 E.D.

Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2005-R3

Plaintiff

v.

Clair Kistner and Lennette Kistner
Defendant(s)

SITUATE IN THE TOWNSHIP OF SALTICK, FAYETTE COUNTY, PENNSYLVANIA, BEING KNOWN AS 289 MELCROFT ROAD, MELCROFT, PA 15462-1017

PARCEL NO. 31-09-0005

IMPROVEMENTS - RESIDENTIAL REAL ESTATE

SOLD AS THE PROPERTY OF - CLAIR KISTNER AND LENNETTE KISTNER

KML LAW GROUP, P.C.
 Suite 5000

701 Market Street
 Philadelphia, PA 19106-1532
 (215) 627-1322

No. 2827 of 2019, G.D.
 No. 42 of 2022 E.D.

PNC BANK, NATIONAL ASSOCIATION, SUCCESSOR BY MERGER TO NATIONAL CITY MORTGAGE, A DIVISION OF NATIONAL CITY BANK
3232 Newmark Drive
Miamisburg, OH 45342
Plaintiff

vs.

SEAN LALLY AKA SEAN P. LALLY
Mortgagor(s) and Record Owner(s)
21 Cleveland Avenue
Uniontown, PA 15401
Defendant(s)

ALL THAT CERTAIN LOT OF LAND SITUATE IN CITY OF UNIONTOWN, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 21 CLEVELAND AVENUE, UNIONTOWN, PA 15401

TAX PARCEL #38-12-0362

IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: SEAN LALLY AKA SEAN P. LALLY

ATTORNEY: KML LAW GROUP, P.C.

McCABE, WEISBERG & CONWAY, LLC
 123 South Broad Street, Suite 1400
 Philadelphia, PA 19109
 (215) 790-1010

No. 142 of 2020, G.D.
 No. 58 of 2022 E.D.

Lakeview Loan Servicing, LLC
Plaintiff

v.

Eric T. Michels, Administrator of the Estate of Donald T. Michels
Defendant

All that certain piece or parcel or Tract of land situate in Fairchance Borough and Georges Township, Fayette County, Pennsylvania, and being known as 9 Hazel Street, Fairchance, Pennsylvania 15436.

Being known as: 9 Hazel Street, Fairchance, Pennsylvania 15436

Title vesting in Donald T. Michels by deed from WILLIAM J. WILSON and SANDRA L. WILSON, husband and wife, dated April 29, 2016 and recorded June 10, 2016 in Deed Book 3310, Page 2067 Instrument Number 201600006047. The said Donald T. Michels died on May 30, 2017. On September 7, 2017, Letters of Administration were granted to Eric T. Michels, nominating and appointing him as the Administrator of the Estate of Donald T. Michels. The said Elsie M. Michels died on January 27, 2017 thereby vesting title in her surviving spouse Donald T. Michels by operation of law.

Tax Parcel Number: 11-11-0030

No. 229 of 2022, G.D.
No. 77 of 2022 E.D.

F.N.B. PROPERTIES COMPANY, INC.,
Plaintiff,
vs.
DAVID J. MULL,
Defendant.

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND BEING SITUATE AND LAYING IN THE TOWNSHIP OF GERMAN, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, AS MORE FULLY DESCRIBED IN DEED VOLUME 3137, PAGE 1538, AT INSTRUMENT NO.: 201000012356, AND PARCEL I.D. NOS. 15-23-0013 AND 15-23-0028-01.

BEING COMMONLY KNOWN AS 138 PENN STREET/37 SKILES LANE, McCLELLANDTOWN, PA 15458.

IMPROVEMENT THEREON:
RESIDENTIAL DWELLING

TAX PARCEL NUMBERS: 15-23-0013 and 15-23-0028-01

BEING THE SAME PREMISES GRANTED AND CONVEYED FROM REGENCY FINANCE CO., D/B/A FNB CONSUMER DISCOUNT COMPANY TO DAVID J. MULL BY SPECIAL WARRANTY DEED - CORPORATION DATED OCTOBER 27, 2010, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF FAYETTE COUNTY ON OCTOBER 27, 2010, IN DEED BOOK 3137, PAGE 1538, INSTRUMENT NO. 201000012356.

No. 219 of 2022, G.D.
No. 76 of 2022 E.D.

FIRST NATIONAL BANK OF PENNSYLVANIA,
Plaintiff,
vs.
ANNELIESE M. RICHARD,
Defendant.

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF ANNELIESE M. RICHARD, OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT CERTAIN REAL ESTATE SITUATED IN SOUTH CONNELLSVILLE BOROUGH, FAYETTE COUNTY, PENNSYLVANIA. HAVING ERECTED THEREON A DWELLING KNOWN AS 1815 2ND STREET, CONNELLSVILLE, PA 15425. DEED BOOK VOLUME 3386, PAGE 2423 AND PARCEL NUMBER 33-08-0059.

No. 136 of 2022, G.D.
No. 69 of 2022 E.D.

FIRST NATIONAL BANK OF PENNSYLVANIA,
Plaintiff,
vs.
FRANK L. RUDZIENSKI AND TARA A. RUDZIENSKI,
Defendants,

at Execution Number 136 of 2022 GD

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND BEING SITUATE AND LAYING IN THE TOWNSHIP OF NORTH UNION, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA, AS MORE FULLY DESCRIBED IN DEED BOOK 2905 PAGE 1980 AND PARCEL # 25-21-0038.

BEING COMMONLY KNOWN AS 24 Fairview Street, Uniontown, PA 15401.

IMPROVEMENT THEREON:
RESIDENTIAL DWELLING

TAX PARCEL NUMBER: 25-21-0038

BEING THE SAME PREMISES GRANTED AND CONVEYED TO FRANK L. RUDZIENSKI AND TARA A. RUDZIENSKI, HIS WIFE, BY A CERTAIN DEED DATED MAY 24, 2004 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF FAYETTE COUNTY ON MAY 24, 2004, IN DEED BOOK VOLUME 2905, PAGE 1980.

KML LAW GROUP, P.C.
Suite 5000
701 Market Street
Philadelphia, PA 19106-1532
(215) 627-1322

No. 2186 of 2019, G.D.
No. 64 of 2022 E.D.

Jill M. Fein, Esquire
Hill Wallack LLP
777 Township Line Road, Suite 250
Yardley, PA 19067
(215) 579-7700

No. 1412 of 2021, G.D.
No. 61 of 2022 E.D.

PNC BANK, NATIONAL ASSOCIATION
3232 Newmark Drive
Miamisburg, OH 45342

Plaintiff

vs.

JOSEPH A. SHAY
Mortgagor(s) and Record Owner(s)
170 Easy Street
Uniontown, PA 15401

Defendant(s)

ALL THAT CERTAIN LOT OF LAND
SITUATE IN CITY OF UNIONTOW,
COUNTY OF FAYETTE AND
COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 170 EASY
STREET, UNIONTOWN, PA 15401 TAX
PARCEL #38-10-0066

IMPROVEMENTS: A RESIDENTIAL
DWELLING SOLD AS THE PROPERTY
OF: JOSEPH A. SHAY

ATTORNEY: KMLLAWGROUP,P.C.

**Wilmington Savings Fund Society, FSB, as
trustee of Upland Mortgage Loan Trust B**
Plaintiff

v.

Delmar P. Smith and Loraine Smith
Defendant

By virtue of a writ of execution case
number: 2021-1412

Plaintiff: Wilmington Savings Fund
Society, FSB, as trustee of Upland Mortgage
Loan Trust B v. Defendant: Delmar P. Smith
and Loraine Smith owners of property situate in
the Perry Township, Fayette County,
Pennsylvania, being pin number 27-4-62

Property being known as: 98 Happy Valley
Road, Perryopolis, PA 15473

Improvements thereon: Residential
Property

*** END SHERIFF SALES ***

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 6, 2022, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2621-0352	CAROL L. SHULTZ	Georgina V. Shultz Herilla, Executrix
2620-0416	ELMER M. SEMENTA	Patricia D. David and John W. David, Co-Executors

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

Monday, June 20, 2022, 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 6, 2022, at 9:30 A.M.

<u>Estate Number</u>	<u>Estate Name</u>	<u>Accountant</u>
2615-0526	SAUNDRA G. CHIDESTER	Lawrence Baker, Executor
2621-0276	CARL E. HERSHBERGER	Alfred P. Tofani, Executor

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

Monday, June 20, 2022, 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

COMMERCIAL/RESIDENTIAL/CURRENT OWNER/MINERAL TITLE

A DECADE OF EXPERIENCE

E&O INSURED

WILL TRAVEL

ACCEPTING NEW CLIENTS

JUDICIAL OPINION

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

DIANA KREVICS,	:	
Plaintiff,	:	
vs.	:	
	:	
NATHAN DULEY and	:	
ROBERT EUGENE GRIMM,	:	
Defendants,	:	
vs.	:	
	:	
THE ESTATE OF DARRAL T. HEATON,	:	No. 1602 of 2021, G.D.
Nominal Party.	:	Senior Judge Timothy P. Creany

OPINION AND ORDER

CREANY, S.J. May 9, 2022

Before the Court are eight Preliminary Objections filed by Defendant Robert Eugene Grimm to the two hundred seventy-one paragraph Complaint of Plaintiff Diana Krevics wherein she alleges fraud, undue influence, conspiracy, and legal malpractice against him.

FACTUAL BACKGROUND

This action arises out of the death of Darrall T. Heaton on July 16, 2020, and the subsequent probating of his purported will dated October 23, 2019, drafted by Defendant Robert Eugene Grimm, Esquire, which bequeathed one dollar each to his son, Darrall Thomas Heaton, Jr., and to his daughter, "Dianne" Joy Heaton, also known as Plaintiff Diana Krevics, and the remainder of his estate to his friend, Defendant Nathan W. Duley.

The Register of Wills of Fayette County issued Letters Testamentary to Duley on September 18, 2020. In January 2021, Plaintiff Krevics initiated a will contest in the Orphans' Court Division alleging that the probated will was fraudulent. Plaintiff maintains that the Last Will and Testament of Darrall T. Heaton dated January 15, 2005, is the operative will wherein she is the purported beneficiary of the estate with only one dollar bequeathed to her brother, Darrall T. Heaton, Jr. and no bequest to Duley. Following proceedings in the Orphans' Court division and by agreement of the parties, Krevics instituted the within action naming Attorney Grimm and Duley as defendants.

In her Complaint, Krevics alleged fraud, undue influence, conspiracy, and legal malpractice against Attorney Grimm and by way of these preliminary objections, Attorney Grimm seeks to have all causes of action against him dismissed. Duley has answered the Complaint without objection.

Plaintiff Krevics has withdrawn Count I - Fraud and Count III - Undue Influence in the Complaint as to Defendant Grimm, thus rendering moot his second, third, and sixth

preliminary objections. Defendant Grimm has withdrawn his seventh preliminary objection as to the certificate of merit. By agreement of the parties, the eighth preliminary objection is moot, and Plaintiff Krevics would be permitted to replead her ad damnum clauses should any count remain against Defendant Grimm following this Court's decision on preliminary objections.

Remaining for this Court's decision are the first preliminary objection, a demurrer to Count V - Legal Malpractice; the fourth preliminary objection, a demurrer and insufficient specificity to Count IV - Conspiracy; and the fifth preliminary objection, insufficient specificity as to Plaintiff's claim for punitive damages at Count V - Legal Malpractice.

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, NA. v. Fabinayi*, 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).

To determine whether the allegations of a Complaint are insufficiently specific, the Court must examine the averments in the complaint, together with the documents and exhibits attached thereto, in order to evaluate the sufficiency of the facts averred. *Rambo v. Greene*, 906 A.2d 1232, 1235 (Pa. Super. 2006). The test for whether a complaint is sufficiently specific is whether its averments are sufficiently clear and set forth sufficient facts to enable the defendant to prepare its defense. *Commonwealth by Shapiro v. Golden Gate National Senior Care LLC*, 194 A.3d 1010, 1030 (Pa. 2018). "A complaint 'must apprise the defendant of the nature and extent of the plaintiffs claim so that the defendant has notice of what the plaintiff intends to prove at trial and may prepare to meet such proof with his own evidence.'" *Discover Bank v. Stucka*, 33 A.3d 82, 86 (Pa. Super. 2011)(quoting *Weiss v. Equibank*, 460 A.2d 271 (Pa. Super. 1983)). A preliminary objection of insufficient specificity is properly sustained where the failure of a complaint to aver when the defendant's acts occurred impairs the defendant's ability to identify the conduct on which the plaintiff bases its claims or the defendant's ability to determine what defenses it has. *Stilp v. Commonwealth*, 910 A.2d 775, 786-87 (Pa. Cmwlth. 2006) (en bane), *affd*, 974 A.2d 491 (Pa. 2009).

DISCUSSION

At his first preliminary objection, Defendant Grimm requests this Court to dismiss Count V - Legal Malpractice alleging that Plaintiff Krevics lacks standing or limited third party beneficiary status recognized under Pennsylvania law to bring a legal malpractice action against him. A review of the Complaint establishes that Defendant Grimm drafted the October 2019 Last Will and Testament of the decedent, Darrall T. Heaton, thus unequivocally creating an attorney-client relationship between Attorney Grimm and Decedent Heaton. The Complaint lacks any allegation that an attorney-

client relationship existed or was created between Attorney Grimm and Plaintiff Krevics.

Plaintiff's allegation instead recites:

As an attorney serving as scrivener and witness for a will, Mr. Grimm owed a duty of care to prevent the execution of, and his participation in the presentment of, a defective will, a will being sworn by a person not of sound body and mind, or a will being executed by a person unduly influenced by another.

Complaint, ¶257.

Further, Plaintiff Krevics alleges Attorney Grimm "owed Mr. Heaton an undivided duty of loyalty [...]"; "a duty not to sign falsely as a witness to Mr. Heaton's signature if Mr. Heaton did not in fact physically sign before him and it is believed he did not[...]"; and that Attorney Grimm "failed in these duties." Complaint, ¶¶258-260. Plaintiff Krevics further alleges that Attorney "Grimm should have noticed Mr. Heaton was not of sound mind and body and/or that Mr. Duley was unduly influencing Mr. Heaton." Complaint, ¶261. Plaintiff Krevics alleges inconsistencies in the will that she claims were "numerous red flags", "riddled with factual and other errors", signature discrepancies, and incorrect spelling of names. Complaint, ¶¶261-266.

Pennsylvania law is clear that a plaintiff does not have standing to sue an attorney unless there is an attorney-client relationship between the plaintiff and the defendant attorney. *Hess v. Fox Rothschild, LLP*, 925 A.2d 798 (Pa. Super. 2007). To maintain a claim of legal malpractice based on negligence, a plaintiff must show an attorney-client or analogous professional relationship with the defendant- attorney. *Guy v. Liederbach*, 459 A.2d 744, 746, 750 (Pa. 1983). This general, well- established rule applies to allegations of legal malpractice in any context, including, as here, disputes involving the drafting, execution, and/or administration of a will. *Guy*, supra.

Plaintiff Krevics's Complaint is devoid of any allegation that Attorney Grimm owed a duty to her as a client rather she alleges, "Mrs. Krevics is a named beneficiary in the Fraudulent Will." Because Plaintiff Krevics did not have an attorney-client or other analogous professional relationship with Attorney Grimm, she cannot maintain an action in tort based on negligence for legal malpractice against him.

Guy v. Liederbach, 459 A.2d 744, 746 (Pa. 1983) created the only exception to this rule being "a narrow class of third party beneficiaries ... under Restatement (Second) of Contracts § 302 where the intent to benefit is clear and the promisee (testator) is unable to enforce the contract." *Id.* at 747. The Supreme Court affirmed the use of the Restatement of Contracts § 302 two-part test to analyze third-party beneficiary standing to sue for breach of contract:

Restatement (Second) of Contracts § 302 (1979) states:

§ 302. Intended and Incidental Beneficiaries

(1) Unless otherwise agreed between promisor and promisee, a beneficiary of a promise is an intended beneficiary if recognition of a right to performance in the beneficiary is appropriate to effectuate the intention of the parties and either

- (a) the performance of the promise will satisfy an obligation of the promisee to pay money to the beneficiary; or
- (b) the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.

(2) An incidental beneficiary is a beneficiary who is not an intended beneficiary.

Estate of Agnew, 152 A.3d 247,253 (Pa. 2017).

Therefore, the operative inquiry becomes whether Plaintiff Krevics falls within the narrow class of intended third-party beneficiaries entitled to bring a breach of contract claim against Attorney Grimm. The Supreme Court in *Guy* announced "a two part test for determining whether one is an intended third party beneficiary: (1) the recognition of the beneficiary's right must be 'appropriate to effectuate the intention of the parties,' and (2) the performance must 'satisfy an obligation of the promisee to pay money to the beneficiary' or 'the circumstances indicate that the promisee intends to give the beneficiary the benefit of the promised performance.'" The Supreme Court held, "we feel persons who are named beneficiaries under a will and who lose their intended legacy due to the failure of an attorney to properly draft the instrument should not be left without recourse or remedy. *Guy* 459 A.2d at 752.

The Court must decide what was Darrall T. Heaton's "intended legacy" to his daughter, Plaintiff Krevics. "The best evidence of a testator's intent is the testamentary document itself and the testator's arrangements with his attorney." *Est. of Agnew v. Ross*, 152 A.3d 247,261 (Pa. 2017) citing *Guy*, 459 A.2d at 752. When construing a will, "[t]he intention of [a] testator ... must be determined from what appears upon the face of the will. Extrinsic evidence of surrounding facts must only relate to the meaning of ambiguous words of the will. It cannot be received as evidence of testator's intention independent of the written words employed." *Est. of Agnew*, 152 A.3d at 262 quoting *In re Beisgen's Estate*, 128 A.2d 52, 55 (Pa. 1956).

The Superior Court further analyzed intended legacies in *Hess v. Fox Rothschild, LLP*, 925 A.2d 798 (Pa. Super. 2007), reasoning:

As discussed in detail *supra*, our Supreme Court held in *Guy* that a legatee has standing to bring suit against the testator's attorney if the legatee's right to performance is "appropriate to effectuate the intentions of the parties" to the contract, i.e., the testator and his or her attorney. *Guy*, *supra* at 60-61, 459 A.2d at 751-52. Furthermore, "[t]he circumstances which clearly indicate the testator's intent to benefit a named legatee are his arrangements with the attorney and the text of his will." *Id.* at 61, 459 A.2d at 752 (emphasis added). Under *Guy*, it is clear that Mrs. Rosewater's intentions as to who was to benefit from her will and what each legatee was to receive must be determined from the text of her will. Appellants do not claim that they received a legacy less than that bequeathed to them according to the text of Mrs. Rosewater's will. They claim only that Mrs. Rosewater's true intent was to bequeath them a greater legacy than that afforded by the will. However, this claim cannot be used to establish standing under *Guy*. Because Appellants did not plead that they lost their intended legacy as provided by the text of Mrs. Rosewater's will, we conclude that Appellants do not fall into the narrow class of legatees upon whom standing is conferred under *Guy* to bring suit for breach of contract against the testator's attorney.

Appellants' contrasting, expansive interpretation of Guy's holding not only conflicts with the oft-stated view that Guy applies to a narrow class of legatees, but also presents opportunities for mischief that we cannot condone or ignore. Under Appellants' view, virtually any legatees, disappointed in their share of the testator's bequests, could mount an indirect attack on the will by bringing suit against the testator's attorney, claiming that the will's text did not truly reflect the testator's intent and thus that the attorney breached his or her contract with the testator to benefit the (disappointed) legatees. We conclude that our Supreme Court neither intended nor even imagined that Guy's grant of standing should extend so far from the circumstances presented in Guy.

Hess, 925 A.2d at 808-809 (emphasis in original).

The Court finds the facts of the within matter analogous to Hess, namely that Plaintiff Krevics essentially claims that Darrall T. Heaton's true intent was to bequeath her a greater legacy than the one dollar afforded by the October 2019 will. Plaintiff was "disappointed" in her share of the bequests and is attempting to mount an attack on the will by suit against Attorney Grimm. The Court cannot look beyond the text of the October 2019 to determine the decedent's intent. Plaintiff is arguing that the October 2019 will should be invalidated based on undue influence or fraud in its drafting. Interpreting the Guy exception narrowly, as is the required standard, Plaintiff Krevics has failed to establish standing to sue for legal malpractice as an intended third-party beneficiary because she failed the first part of the Guy test, namely that the recognition of her right must be "appropriate to effectuate the intention of the parties."

The Court holds that Plaintiff Krevics lacks standing to sue Attorney Grimm for legal malpractice, the first preliminary objection of Defendant Grimm must be sustained, and Count V - Legal Malpractice of Plaintiff's Complaint is dismissed. As the legal malpractice action has been dismissed, the fifth preliminary objection for punitive damages derivative only from the legal malpractice claim must also be sustained.

The fourth preliminary objection is in the nature of a demurrer and for insufficient specificity to Plaintiff's Complaint Count IV - Conspiracy, the only remaining cause of action against Defendant Grimm. Initially in his preliminary objections, Defendant Grimm argued that Plaintiff's civil conspiracy claim must fail because the Complaint is devoid of factual allegations which could form the basis of a claim for conspiracy. Specifically, Defendant Grimm reasoned that because the Complaint alleges that he had an attorney-client relationship with the decedent that involved Attorney Grimm's preparation of his October 2019 Last Will and Testament that the very essence of his legal services contract with decedent could not serve as a basis for a conspiracy claim. At the time set for hearing, Defendant Grimm also argued that a civil conspiracy claim must be predicated on a valid underlying tort claim to survive preliminary objections. Since Plaintiff Krevics dismissed the causes of action sounding in tort, fraud and undue influence, as to Defendant Grimm, he requested the Court sustain his preliminary objection and dismiss the remaining conspiracy cause of action.

By way of supplemental argument after oral argument, Plaintiff Krevics agreed that Pennsylvania law requires civil conspiracy to derive from a tort, however, she argued that the underlying tort need not be pleaded or proved against each individual answerer-

ble for the conspiracy. Plaintiff quoted the Superior Court's holding, "a finding of civil conspiracy does not require proof that a passive conspirator had the right to control the details of the tasks of its co-conspirators." *Bert Co. v. Turk*, 257 A.3d 93, 115 (Pa. Super. 2021), appeal granted on other grounds, No. 320 WAL 2021, 2022 WL 908445 (Pa. Mar. 29, 2022). However, the Court does not find *Bert Co. v. Turk* supportive of Plaintiff's argument that a civil conspiracy claim can proceed against a named defendant (here, Defendant Grimm) based on the alleged tort of another named defendant (Defendant Duley) without also a simultaneous tort allegation against that first defendant (Defendant Grimm).

"[A]bsent a civil cause of action for a particular act, there can be no cause of action for civil conspiracy to commit that act." *Fiedler v. Spencer*, 231 A.3d 831, 838, (Pa. Super. 2020) quoting *Goldstein v. Phillip Morris, Inc.*, 854 A.2d 585, 590 (Pa. Super. 2004). No civil cause of action for conspiracy can exist unless the conduct that was the subject of the conspiracy is actionable. *Morley v. Farnese*, 178 A.3d 910, 919 (Pa. Commw. Ct. 2018). To establish a cause of action for concert of action, the plaintiff must show that defendant committed a tortious act or assisted others in committing an actionable tort. *Skipworth v. Lead Industries Association, Inc.*, 690 A.2d 169, 174 (Pa. 1997) (quoting Restatement (Second) of Torts, § 876).

Because Plaintiff Krevic's tort claims were withdrawn or dismissed as to Defendant Grimm, she can have no cause of action against him for civil conspiracy. Defendant Grimm's initial failure to request dismissal of the conspiracy cause of action as to this reasoning is of no moment as Plaintiff Krevics withdrew her tort allegations of fraud and undue influence only after Defendant Grimm filed preliminary objections. Therefore, the fourth preliminary objection of Defendant Grimm is sustained and Count IV - Conspiracy is dismissed as to him.

Wherefore we will enter the following Order:

ORDER

AND NOW, this 9th day of May, 2022, upon consideration of the Preliminary Objections filed by Defendant Robert Eugene Grimm to the Complaint of Plaintiff Diana Krevics and the Record, it is hereby ORDERED and DECREED that the first, fourth, and fifth preliminary objection of Defendant Grimm must be sustained and Count IV - Conspiracy and Count V - Legal Malpractice are DISMISSED in accordance with the foregoing Opinion.

BY THE COURT:
TIMOTHY P. CREANY, SENIOR JUDGE

ATTEST:
Prothonotary

LUNCH & LEARN SERIES

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

- Date: **Wednesday, May 25th from 12:00 p.m. to 1:30 p.m.**
- Location: Courtroom No. 1 of the Fayette County Courthouse
- Discussion topics: **On Cross-Examination**
- Presenter: **Samuel J. Davis, Esquire, Melinda K. Dellarose, Esquire, and Brent Eric Peck, Esquire**

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, 2017

- 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 email to cindy@fcbar.org on or before Monday, May 23rd.

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