

# FAYETTE LEGAL JOURNAL

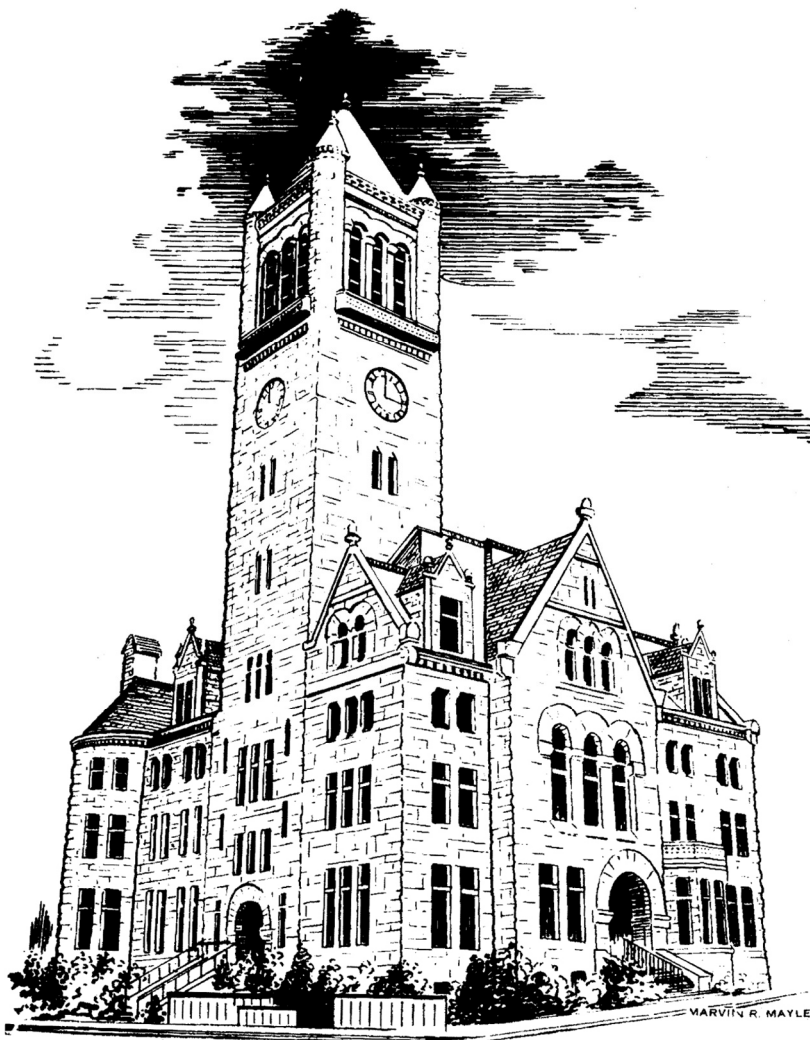
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## FAYETTE LEGAL JOURNAL

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

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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

**RUTH E. BAUGHMAN**, late of South Union Township, Fayette County, PA <sup>(3)</sup>

*Personal Representative:*

Timothy Neal Baughman  
c/o Davis & Davis

107 East Main Street  
Uniontown, PA 15401

*Attorney:* Gary J. Frankhouser

**PATRICIA BEAL**, late of Upper Tyrone Township, Fayette County, PA <sup>(3)</sup>

*Executor:* Edward A. Beal

c/o 815A Memorial Boulevard  
Connellsville, PA 15425

*Attorney:* Margaret Z. House

**VINCENT J. FICARA**, late of Uniontown, Fayette County, PA <sup>(3)</sup>

*Executrix:* Teresa E. Ficara

c/o 84 East Main Street  
Uniontown, PA 15401

*Attorney:* Vincent M. Tiberi

**MARIE MORGAN, a/k/a MARIE C. MORGAN**, late of South Union Township, Fayette County, PA <sup>(3)</sup>

*Executrix:* Cynthia Chesler

c/o Higinbotham Law Offices  
68 South Beeson Boulevard  
Uniontown, PA 15401

*Attorney:* James Higinbotham

**DORIS RANDOLPH, a/k/a DORIS E. RANDOLPH, a/k/a DORIS EVELYN RANDOLPH**, late of Menallen Township, Fayette County, PA <sup>(3)</sup>

*Executor:* Douglas Thomas

310 Diamond Road  
Grove City, PA 16127  
c/o Molloy Law, LLC  
15 Woodland Center Drive  
P.O. Box 687  
Grove City, PA 16127  
*Attorney:* Amy E. Molloy

**HELEN J. STANISH**, late of Washington Township, Fayette County, PA <sup>(3)</sup>

*Executrix:* Rose M. Young

106 Orchard Valley Lane  
Harmony, PA 16037

c/o 823 Broad Avenue  
Belle Vernon, PA 15012

*Attorney:* Mark E. Ramsier

### Second Publication

**JOHN F. CATLETT, a/k/a JOHN FARRELL CATLETT**, late of Smithfield, Fayette County, PA <sup>(2)</sup>

*Personal Representative:* Allen Catlett

c/o P.O. Box 622

Smithfield, PA 15478

*Attorney:* Charity Grimm Krupa

**LUANA M. CATLETT, a/k/a LUANA GAY CATLETT**, late of Smithfield, Fayette County, PA <sup>(2)</sup>

*Personal Representative:* Allen Catlett

c/o P.O. Box 622

Smithfield, PA 15478

*Attorney:* Charity Grimm Krupa

**LORETTA M. COLACONE, a/k/a LORETTA MAE COLACONE**, late of Uniontown, Fayette County, PA <sup>(2)</sup>

*Executor:* George Muzika

c/o Goodwin Como, P.C.

108 North Beeson Boulevard, Suite 400  
Uniontown, PA 15401

*Attorney:* Benjamin Goodwin

**CATHERINE R. IMHOFF, a/k/a CATHERINE ROSE IMHOFF**, late of Redstone Township, Fayette County, PA <sup>(2)</sup>

*Personal Representative:* Robert Duke

c/o Davis & Davis

107 East Main Street

Uniontown, PA 15401

*Attorney:* James T. Davis

**JOYCE KATHRYN MILLER, a/k/a JOYCE K. MILLER**, late of Springfield Township, Fayette County, PA (2)

*Co-Administratrix C.T.A.:* Susan G. Stoner  
1455 West Pittsburgh Street  
Scottdale, PA 15683  
*Co-Administrator C.T.A.:* John L. Miller  
710 Mill Run Road  
Mill Run, PA 15464  
c/o 201 North Chestnut Street  
P.O. Box 342  
Scottdale, PA 15683  
*Attorney:* James S. Lederach

**HUBERT L. REED, a/k/a HUBERT L. REED, JR.**, late of Upper Tyrone Township, Fayette County, PA (2)

*Personal Representative:* Wayne Peffer  
c/o 208 South Arch Street, Suite 2  
Connellsville, PA 15425  
*Attorney:* Richard A. Husband

**First Publication**

**DEBRA BRATTON, a/k/a DEBRA L. SAVAGE BRATTON**, late of Wharton Township, Fayette County, PA (1)

*Executor:* Thomas A. Bratton  
c/o Kopas Law Offices  
556 Morgantown Road  
Uniontown, PA 15401  
*Attorney:* John Kopas

**NINA CULVER**, late of Dunbar Township, Fayette County, PA 15401 (1)

*Co-Executrix:* Connie L. Sewchek and Perry Culver, Jr.  
c/o Rowan Law Office  
890 Vanderbilt Road  
Connellsville, PA 15425  
*Attorney:* Mark Rowan

**EUGENE A. SPOTTO**, late of Connellsville Township, Fayette County, PA (1)

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

**EDWARD T. STEVENSON**, late of Newell, Fayette County, PA (1)

*Personal Representative:*  
Herbert G. Mitchell, Jr.  
c/o Mitchell Law Office  
902 First Street  
P.O. Box 310  
Hiller, PA 15444  
*Attorney:* Herbert G. Mitchell, Jr.

**LEGAL NOTICES**

**NOTICE**

Notice is hereby given that Articles of Incorporation were filed on December 29, 2022 with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania for the purpose of obtaining a Certificate of Incorporation of a domestic nonprofit corporation which was organized under the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania, (15 Pa. C. S. A. Section 5306, et. sec.) as amended. The name of the Corporation is Bright Beginnings Center for Learning, Inc.

James E. Higinbotham, Jr., Esq.  
HIGINBOTHAM LAW OFFICES  
68 South Beeson Boulevard  
Uniontown, PA 15401  
Telephone: 724-437-2800

## SHERIFF'S SALE

Date of Sale: March 16, 2023

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 March 16, 2023, at 2:00 pm at <https://fayette.pa.realforeclose.com>.

The Conditions of sale are as follows:

All bidders must complete the Realauction on-line registration process at <https://fayette.pa.realforeclose.com> to participate in the auction.

All bidders must place a 10% deposit equal to the successful bid for each property purchased to Realauction via wire transfer or ACH. Upon the auction's close, buyer shall have 10 business days to pay the remaining balance to the Fayette County Sheriff's Office via cashier's check. No cash will be accepted. Failure to comply with the Conditions of Sale, shall result in a default and the down payment shall be forfeited by the successful bidder and applied to the costs and judgments. The schedule of distribution will be filed no later than 30 days after the sale of real property. If no petition has been filed to set aside the sale or objections to the distribution are filed within 10 days of filing the distribution, the Sheriff will prepare and record a deed transferring the property to the successful bidder.

(1 of 3)

James Custer  
Sheriff of Fayette County

No. 1842 of 2022 GD  
No. 257 of 2022 ED

**KeyBank, NA, s/b/m First Niagara Bank, NA  
Plaintiff,**  
**vs.**

**Daniel S. Baran, as Executor of the Estate of  
Joseph E. Baran, AKA Joseph Edward Baran  
Defendant**

ALL that certain parcel of land lying and being situate in the Township of Dunbar, County of Fayette, and Commonwealth of Pennsylvania, known as 235 Little Summit Road, Dunbar, PA 15431 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 09-20-0057

BEING the same premises which Edwina Joy Baran, no marital status shown, by Deed dated July 7, 1995 and recorded in and for Fayette County, Pennsylvania in Deed Book 1563, Page 0264, granted and conveyed unto Joseph E. Baran.

---

SHNAYDER LAW FIRM, LLC

By: Jennie Shnyder, Esquire  
ID. No. 315213

148 East Street Road, Suite 352

Feasterville, PA 19053

Phone: 215-834-3103

Fax: 215-565-2679

[jennie@shnyderlawfirm.com](mailto:jennie@shnyderlawfirm.com)

No. 2002 of 2022 GD

No. 284 of 2022 ED

**EDWARD BROWN**

**vs.**

**HOLLY BRINKER, ADMINSTRATOR OF  
THE ESTATE OF SHARON L. DANIELS,  
DECEASED**

ALL THAT CERTAIN parcel of land in Dunbar Township, Fayette County, Commonwealth of Pennsylvania.

TAX PARCEL # 09-20-0058

PROPERTY ADDRESS: 233 Little Summit Road, Dunbar, PA 15431

---

Robertson, Anschutz, Schneid, Crane & Partners, PLLC  
A Florida Limited Liability Company  
133 Gaither Drive, Suite F  
Mt. Laurel, NJ 08054  
Phone: (855) 225-69006  
Fax: (866) 381-9549

No. 1053 of 2022 GD  
No. 258 of 2022 ED

**LAKEVIEW LOAN SERVICING, LLC**

**Plaintiff**

**v.**

**RITA A. BRITT A/K/A RITA BRITT**

**Defendant(s)**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE SOUTH UNION TOWNSHIP, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 128 HUTCHINSON STREET UNIONTOWN (SOUTH UNION), PA 15401

BEING PARCEL NUMBER: 34-34-0028

Brock & Scott, PLLC

No. 1932 of 2022 GD  
No. 251 of 2022 ED

**FREEDOM MORTGAGE CORPORATION**

**v.**

**STEPHEN B HIGBY**

By virtue of a Writ of Execution No. 2022-01932

FREEDOM MORTGAGE CORPORATION

**v.**

**STEPHEN B HIGBY**

owner(s) of property situate in the GEORGES TOWNSHIP, FAYETTE County, Pennsylvania, being 74 Sheldon Avenue, Fairchance, PA 15436

Tax ID No. 14-31-0103

Improvements thereon: RESIDENTIAL DWELLING

Judgment Amount: \$176,140.05

Vitti Law Group, Inc.  
BY: Lois M. Vitti, Esquire  
PA ID #209865  
663 Fifth Street  
Oakmont PA 15139  
(412) 281-1725

No. 126 of 2022 GD  
No. 256 of 2022 ED

**Pennsylvania Housing Finance Agency,**  
**Plaintiff,**

**vs.**

**Gerald J. Henschel and Selena Shockley,**  
**Defendants.**

Luzerne Twp, Cty of Fayette, Cmwltth of PA, HET a dwg k/a 657 Main Street, Merrittstown, PA 15463. Parcel No. 19-29-0093

Richard M. Squire & Associates, LLC

By: 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. 1229 of 2022 GD  
No. 288 of 2022 ED

**U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMTP Trust, Series 2019-C**

**PLAINTIFF**

**v.**

**Gail Dickison Jacobs**

**DEFENDANT.**

TAX PARCEL NO.: 38-13-0013

PROPERTY ADDRESS: 13 Edgemont Drive, Uniontown, PA 15401

IMPROVEMENTS: Single Family Dwelling

SEIZED AND TAKEN in execution as the property of Gail Dickison Jacobs

BEING Parcel ID 38-13-0013

Being the same premises that Dewayne Jacobs Sr. by deed dated 8/22/2007 and recorded 9/4/2007 in the office of the Recorder of Deeds

in the County of Fayette, Commonwealth of Pennsylvania in Book 3038, Page 225 and as Instrument No. 200700012756

Dewayne Jacobs Sr. departed this life on 5/6/2011 thereby vesting title to Gail Dickison Jacobs

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

No. 317 of 2018 GD  
No. 262 of 2022 ED

Vitti Law Group, Inc.  
BY: Lois M. Vitti, Esquire  
PA ID #209865  
663 Fifth Street  
Oakmont PA 15139  
(412) 281-1725

No. 648 of 2022 GD  
No. 255 of 2022 ED

**Pennsylvania Housing Finance Agency,**  
**Plaintiff,**  
**vs.**

**Justin D. Knopsnider and Jessica Knopsnider,**  
**Defendants.**

Twp of Bullskin, Cty of Fayette, Cmwlth of PA, HET a dwg k/a 718 Breakneck Road, Connellsville, PA 15425. Parcel No. 04-36-0147

No. 1694 of 2022 GD  
No. 248 of 2022 ED

**PNC Bank, National Association**  
**Plaintiff,**  
**vs.**

**Patricia L. Mitchell; John Mitchell**  
**Defendants.**

ALL that certain parcel of land lying and being situate in the City of Uniontown, County of Fayette, and Commonwealth of Pennsylvania, known as 1 Veech Street, Uniontown, PA 15401 having erected thereon a dwelling house.

Being known and designated as Tax ID No.: 38-10-0130

BEING the same premises which E. Louise Bartruff, an unmarried widow, by Deed dated August 17, 2018 and recorded in and for Fayette County, Pennsylvania in Deed Book 3381, Page 686, granted and conveyed unto Patricia L. Mitchell and John Mitchell, her husband.

**M&T BANK**  
**1 Fountain Plaza**  
**Buffalo, NY 14203**

**Plaintiff**  
**vs.**

**HAROLD N. PENNINGTON III**  
**JULIE A PENNINGTON A/K/A JULIA A. PENNINGTON**

**Mortgagor(s) and Record Owner(s)**  
**132 North 6th Street**  
**Connellsville, PA 15425**  
**Defendant(s)**

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

BEING KNOWN AS: 132 NORTH 6TH STREET, CONNELLSVILLE, PA 15425 132 NORTH SIXTH STREET, CONNELLSVILLE, PA 15425 132N 6TH STREET, CONNELLSVILLE, PA 15425 132N 6TH STREET, CONNELLSVILLE, PA 15425 132N 6TH STREET, CONNELLSVILLE, PA 15425 132 NORTH 6TH STREET, CONNELLSVILLE, PA 15425 132N 6TH STREET, CONNELLSVILLE, PA 15425

TAX PARCEL #05-06-0562 & 05-06-0563 IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF: HAROLD N. PENNINGTON III AND JULIE A PENNINGTON A/K/A JULIA A. PENNINGTON

ATTORNEY: KML LAW GROUP, P.C.

Robertson, Anschutz, Schneid, Crane & Partners, PLLC  
A Florida Limited Liability Company  
133 Gaither Drive, Suite F  
Mt. Laurel, NJ 08054  
Phone: (855) 225-69006  
Fax: (866) 381-9549

No. 847 of 2022 GD  
No. 269 of 2022 ED

**LAKEVIEW LOAN SERVICING, LLC,**  
**Plaintiff**  
**v.**

**JACQUELINE PERRYMAN, IN HER CAPACITY AS ADMINISTRATRIX AND HEIR OF THE ESTATE OF TRAVIS R. PERRYMAN A/K/A TRAVIS RAY PERRYMAN; HARRY R. PERRYMAN, IN HIS CAPACITY HEIR OF TRAVIS R. PERRYMAN A/K/A TRAVIS RAY PERRYMAN; UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER TRAVIS R. PERRYMAN A/K/A TRAVIS RAY PERRYMAN**

**Defendant(s)**

ALL THOSE CERTAIN LOTS OR PIECES OF GROUND SITUATE IN THE TOWNSHIP OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA:

BEING KNOWN AS: 815 HIGH RD DUNBAR, PA 15431  
BEING PARCEL NUMBER: 09310299

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

No. 618 of 2019 GD  
No. 271 of 2022 ED

**Wilmington Trust, National Association, not in its individual capacity, but solely as trustee for MFRA Trust 2014-1**

**Plaintiff**  
**v.**  
**Charles Samuel Smith and Valerie Suzanne Smith**  
**Defendant**

By virtue of a writ of execution case number: 2019-618

Plaintiff: Wilmington Trust, National Association, not in its individual capacity, but solely as trustee for MFRA Trust 2014-1  
**v.**

Defendant: Charles Samuel Smith and Valerie Suzanne Smith  
owners of property situate in the Springhill Township, Fayette County, Pennsylvania, being pin number 36-05-0029

Property being known as: 126 a/k/a 127 Georges Creek Road, Smithfield, PA 15478  
Improvements thereon: Residential Property

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

No. 130 of 2022 GD  
No. 252 of 2022 ED

**PENNYMAC LOAN SERVICES, LLC**  
**3043 Townsgate Road**  
**Suite 200**

**Westlake Village, CA 91361**  
**Plaintiff**  
**vs.**

**SAMUEL D. SNYDER**  
**Mortgagor(s) and Record Owner(s)**  
**102 South Liberty Street**  
**Masontown, PA 15461**  
**Defendant(s)**

ALL THAT CERTAIN LOT OF LAND SITUATE IN MASONTOWN BORO, COUNTY OF FAYETTE AND COMMONWEALTH OF PENNSYLVANIA.

BEING KNOWN AS: 102 SOUTH LIBERTY STREET, MASONTOWN, PA 15461

TAX PARCEL #21-07-0067  
IMPROVEMENTS: A RESIDENTIAL DWELLING

SOLD AS THE PROPERTY OF:  
SAMUEL D. SNYDER  
ATTORNEY: KML LAW GROUP, P.C.



No. 233 of 2018 GD  
No. 254 of 2022 ED

No. 1138 of 2022 GD  
No. 264 of 2022 ED

**STONE & COMPANY,**

**Plaintiff**

**vs**

**DONALD M. VERNEY and JOANN F. VERNEY,**

**Defendants**

**Longbridge Financial, LLC**

**PLAINTIFF**

**vs.**

**Paul Zitney, known Heir of Paul Zitney, deceased and Michele Kenney, known Heir of Paul Zitney, deceased and Barbara Zitney, known Heir of Paul Zitney, deceased and Steve Zitney, known Heir of Paul Zitney, deceased and Unknown Heirs, Successors, Assigns and All Persons, Firms or Associations Claiming Right, Title or Interest from or under Paul Zitney, deceased**

**DEFENDANTS**

ALL that certain piece, parcel or tract of land situate in Menallen Township, Fayette County, Pennsylvania, known as Lot No. 7 in the Yoder Plan of Lots #4 which plan is recorded in the Recorder of Deeds Office of Fayette County, Pennsylvania, in Plan Book Volume 49, Page 24, said Lot No. 7 being more particularly bounded and described as follows:

BEGINNING at a 5/8 inch rebar located on the southerly sideline of a certain public highway known locally as Township Road 509, being corner common to the lot herein described and land now or formerly owned by Robert Provance; thence by a line dividing the lot herein described and lands now or formerly owned by Robert Provance and Frank A. Yoder South 68 degrees 46 minutes 45 seconds West a distance of 300.70 feet to a 5/8 inch rebar; thence by a line dividing the land herein described and land now or formerly owned by Frank A. Yoder North 17 degrees 19 minutes 15 seconds West a distance of 170.45 feet to a 5/8 inch rebar; thence by a line dividing the land herein described and Lot No. 6 in said plan North 72 degrees 40 minutes 45 seconds East a distance of 300.00 feet to a 5/8 inch rebar located on the aforesaid southerly sideline of Township Road 509; thence by a line running along the southerly sideline of said Township Road 509 South 17 degrees 19 minutes 15 seconds East a distance of 150.00 feet to a 5/8 inch rebar, the place of beginning. CONTAINING an area of 1.103 acres.

THE See Deed Book Volume 3255 page 16  
PROPERTY TAX MAP NO.: 22-21-0173

COMMONLY KNOWN AS: 117 Zitney Road, Vanderbilt, PA 15486  
TAX PARCEL NO. 13140028

\*\*\* END SHERIFF SALES \*\*\*



— ◆ ◆ ◆ —

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



Holly Whalen ◊ Amy Coco ◊ Bethann Lloyd

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# 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

E.F., a minor, by LISA JUAREZ,	:	
parent and natural guardian, and individually,	:	
Plaintiffs,	:	
v.	:	
ERIC SCHAFF, M.D., CHERRY TREE	:	
PEDIATRICS, P.C., WEST VIRGINIA	:	
UNITED HEALTH SYSTEM, INC. t/d/b/a	:	
WEST VIRGINIA UNIVERSITY	:	
HEALTH SYSTEM, individually and	:	
as successor in interest to CHERRY	:	
TREE PEDIATRICS, P.C.,	:	No. 571 of 2022 G.D.
Defendants.	:	Honorable Linda R. Cordaro

OPINION

Linda R. Cordaro, J.

November 2, 2022

Currently before the Court is Defendant's Preliminary Objection to Plaintiffs' Complaint filed by Defendants Eric Schaff, M.D. and Cherry Tree Pediatrics, P.C. on July 14, 2022. Plaintiffs' Complaint asserts claims by E.F. (minor child) via her parent, Plaintiff Juarez, for professional negligence, vicarious liability, and direct negligence, and a claim by Plaintiff Juarez herself for negligent infliction of emotional distress. Defendant's sole preliminary objection challenges the legal sufficiency of this negligent infliction of emotional distress claim under Pa.R.Civ.P. 1028(a)(4).

BACKGROUND

This matter arises from circumstances that occurred between May 2021 and June 2021. As pled in the Complaint, on May 31, 2021, eleven-year-old Minor-Plaintiff spent much of the day using the family's trampoline. That evening, she told her mother, Plaintiff Juarez, that she was experiencing pain in the back of her legs. The following day, June 1, 2021, Minor-Plaintiff told her mother that her feet felt as if they were falling asleep. Later that afternoon, she experienced pains in her feet and legs and had trouble walking. Plaintiff Juarez contacted Defendant Cherry Tree Pediatrics and spoke to Defendant Dr. Schaff, who advised her to bring Minor-Plaintiff to the office.

Minor-Plaintiff required assistance to get into the car and, on arrival at Cherry Tree Pediatrics, could not walk. Defendant Dr. Schaff came to the parking lot to see her, and advised Plaintiff Juarez that her daughter's condition was likely a "stinger" and would resolve on its own. He did not call for an ambulance to take the child to an emergency room.

The following day, June 2, 2021, Minor-Plaintiffs symptoms worsened, and by early afternoon, she had no sensation from the waist down. Plaintiff Juarez called EMS, and Minor-Plaintiff was taken by Life Flight to Children's Hospital of Pittsburgh.

Minor-Plaintiff ultimately was diagnosed with transverse myelitis, a condition that involves inflammation of the spinal cord and requires urgent medical attention. She suffered irreversible injury to her spinal cord and is now permanently immobile, confined to a wheelchair, and has bowel and bladder dysfunction.

The Complaint asserts that Plaintiff Juarez witnessed the negligent treatment of her daughter by Defendant Dr. Schaff, her daughter's suffering and deterioration, and the culmination of her daughter's condition in irreversible neurological compromise. As a result, Plaintiff Juarez suffered extreme emotional distress.

### DISCUSSION

A consideration of preliminary objections challenging the legal sufficiency of a pleading requires that a court accept as true "all well and clearly pleaded material, factual averments and all inferences fairly deducible therefrom." *Sinn v. Burd*, 404 A.2d 672,674 (Pa. 1979). The examination of the complaint is to determine "whether it sets forth a cause of action which, if proved, would entitle the party to the relief sought." *Id.* A preliminary objection is properly sustained only if the complaint fails to do this. *Id.*

In Pennsylvania, a cause of action for negligent infliction of emotional distress is limited to four (4) factual scenarios: (1) the defendant had a contractual or fiduciary duty to the plaintiff; (2) the plaintiff was subjected to physical impact; (3) plaintiff was in a zone of danger and thereby reasonably experienced fear of impending physical injury; or (4) the plaintiff observed a tortious injury to a close relative. *Toney v. Chester Cnty. Hosp.*, 961 A.2d 192, 197-98 (Pa. Super. Ct. 2008), order aff'd by an equally divided court, 36 A.3d 83 (Pa. 2011).

In the fourth scenario, the alleged cause of injury to a close relative may be the negligence of a physician, and although the negligence and the injury need not occur at the same time, a plaintiff still must have a "sensory and contemporaneous observance of the injury." *Love v. Cramer*, 606 A.2d 1175, 1178 (Pa. Super. Ct. 1992) (finding that a plaintiff had a cause of action after she witnessed a doctor fail to order further tests or treatment for her mother and later observed her mother's fatal heart attack).

Furthermore, the event alleged to have inflicted the distress upon the plaintiff must be "discrete and identifiable" in order to trigger recovery. *Berardi v. Johns-Manville Corp.*, 482 A.2d 1067, 1071 (Pa. Super. Ct. 1984) (citing *Amader v. Johns-Manville Corp.* 514 F.Supp. 1031, 1032 (E.D.Pa. 1981)). A plaintiff's observation of the development of a disease over time does not qualify. See e.g., *Tackett v. Encke*, 509 A.2d 1310, 1312 (Pa. Super. Ct. 1986) (finding that a mother had not alleged a "discrete and identifiable traumatic event," when she observed, over several weeks, her son's reaction to a negligently undetected pulmonary embolism); *Berardi*, 482 A.2d at 1071 (stating that a plaintiff could not recover when she had suffered emotional distress from observing the development of her husband's asbestosis).

Defendants' Preliminary Objection is based on the argument that because Plaintiffs allege the injury to Minor-Plaintiff began prior to the visit to Defendant Dr. Schaff and continued to develop afterward, it is an injury taking place over a period of time and therefore is not a "discrete and identifiable" event.

The initial presentation of Minor-Plaintiffs symptoms did begin before the June 1, 2021 visit to Defendant Dr. Schaff. However, after the doctor's allegedly negligent care, the Minor-Plaintiffs condition worsened so rapidly that the very next day she required transport by Life Flight to Pittsburgh. In contrast to the weeks in which the plaintiff in Tackett observed her son's decline and the months in which the plaintiff in Bernardi observed the progression of her husband's asbestosis, the time it took for Minor-Plaintiffs deterioration is extremely short. Furthermore, after the June 1, 2021 visit, Minor-Plaintiff lost all sensation below her waist and ultimately lost her ability to walk altogether.

Given the very short span of time involved as well as the drastic and irreversible loss of function Minor-Plaintiff experienced after Defendant Dr. Schaff's allegedly negligent care, Plaintiffs may be able to prove that Plaintiff Juarez indeed did observe a discrete and identifiable traumatic event.

Defendants' Preliminary Objection is overruled.

#### ORDER

AND NOW, this 2nd day of November 2022, after consideration of Defendants' Preliminary Objection, Plaintiffs' responsive brief, and oral argument on the matter, it is hereby ORDERED that Defendants' sole Preliminary Objection of the legal insufficiency of Plaintiffs' claim of negligent infliction of emotional distress is OVERRULED.

BY THE COURT:  
LINDA R. CORDARO, JUDGE

ATTEST:  
Prothonotary

Date: November 2, 2022





## LUNCH & LEARN SERIES

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

- Date: **Wednesday, January 25th from 12:00 p.m. to 1:30 p.m.**
- Location: **Courtroom No. 2 of the Fayette County Courthouse**
- Discussion topics: **Fraud - A Banking Perspective & Security Measures for IOLTA**
- Presenter: **United Bank and Ernie DeHaas, Esquire**

### **CLE Credit**

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

Members of the FCBA

- \$5 fee for attendance without CLE Credit
- \$15 fee for attendance with CLE Credit

Attorneys admitted to practice in Pennsylvania after January 1, 2017

- \$5 fee for attendance with CLE Credit

Non-members of the FCBA

- \$15 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](mailto:cindy@fcbar.org) on or before Monday, January 23rd.

## COURT APPOINTMENTS

Fayette County Judges need to know which attorneys are willing to be appointed by the Court in various types of matters.

Remember that Court appointments are considered Pro Bono Publico (public service) as required by the Rules of Professional Conduct (Rule 6.1 and 6.2). Some matters will be paid by the County, others will be paid by the parties. Some matters are routine, while others require significant experience. We will appreciate any constructive input you may offer, including evaluations of other attorneys who have been appointed in the past. Comments may be on a separate sheet of paper and need not be signed. The comments will be held in strict confidence.

Please be sure to return the form even if you are currently being appointed regularly. Several of the lists have not been updated since 2017!

Please reply on or before Tuesday, January 31, 2023, indicating your willingness to serve on any of the following lists (next page) and include the following information:

Attorney Name:	PA ID Number:
Telephone:	Email:

Return to: President Judge Steve Leskinen  
c/o Richard Lee, Tipstaff/Office Administrator

Email [rlee@fayettepa.org](mailto:rlee@fayettepa.org), mail to Courtroom One Chambers, 61 E. Main St. Uniontown, PA 15401, or deliver to the President Judge’s mail slot in the Court Administrator’s Office

## 1. Criminal Defense

- \_\_\_\_\_ Willing to accept any appointment  
\_\_\_\_\_ Willing to accept occasional appointment in serious or complex cases  
\_\_\_\_\_ Death Penalty Certified

## 2. Children and Youth Dependency

- \_\_\_\_\_ Parent Representation  
\_\_\_\_\_ Guardian Ad Litem  
\_\_\_\_\_ Attorney for child  
(where “legal interests” and “best interests” are inconsistent).

## 3. Private Termination of Parental Rights

- \_\_\_\_\_ Parent Representation  
\_\_\_\_\_ Guardian Ad Litem  
\_\_\_\_\_ Attorney for child  
(where “legal interests” and “best interests” are inconsistent).

## 4. Child Custody

- \_\_\_\_\_ Guardian Ad Litem  
\_\_\_\_\_ Attorney for child  
(where “legal interests” and “best interests” are inconsistent).

## 5. \_\_\_\_\_ Divorce Hearing Officer (previously known as Divorce Master)

## 6. Guardianships

- \_\_\_\_\_ Adults over age sixty  
\_\_\_\_\_ Adults under age sixty  
\_\_\_\_\_ Children

## 7. \_\_\_\_\_ Civil Mediator (per FCR 212.5)

## 8. \_\_\_\_\_ Board of View (Condemnation)

## 9. \_\_\_\_\_ Partition Hearing Officer

## 10. \_\_\_\_\_ Trustee

## 11. \_\_\_\_\_ Estate Administrator

## 12. \_\_\_\_\_ Receiver

## 13. \_\_\_\_\_ Conservator

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