

**OPINION — VOGEL v MEDCARE**

IN THE COURT OF COMMON PLEAS OF  
WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL DIVISION No. 2023-0040

KATHLEEN VOGEL,  
Plaintiff,

v.

MEDCARE EQUIPMENT COMPANY  
LLC; MEDICAL DEPOT, INC. t/d/b/a  
DRIVE DEVILBISS HEALTHCARE t/d/b/a  
DRIVE MEDICAL; and, CATALINA  
CYLINDERS, INC  
Defendants.

**SYNOPSIS:** In an action brought by a domestic caregiver who alleged that she was severely burned by a home oxygen system, the trial court (J. Lucas) overruled preliminary objections and held that the application of Section 402 K of the Restatement Second of Torts did not per se bar such a claim. This court may not determine from the pleadings that § 402K bars a strict product liability claim on the basis that a home oxygen system may be a “medical device,” that is an unavoidably unsafe product.

[1] Pleading 302

When considering preliminary objections such as a demurrer or an objection asserting the failure to conform to law or rule of court, an examination is done of the challenged pleading. In those circumstances, a trial court is required to treat as true all well-pleaded material, factual averments and all inferences fairly deducible therefrom.

[2] Products Liability 313 A

Pennsylvania recognizes three types of defective conditions that can give rise to strict liability: design defect, manufacturing defect, and failure to warn. *Phillips v. A-Best Prods. Co.*, 665 A.2d 1167, 1170 (Pa. 1995).

[3] Products Liability 313 A

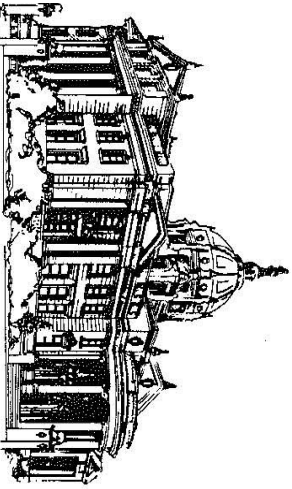
Pennsylvania law presumes that products can be the subject of strict products liability suits. *Tincher v. Omega Flex, Inc.*, 104 A.3d 328, 382, 389 (Pa. 2014) (citing Restatement (Second) of Torts § 402A, cmt. b).

[4] Products Liability 313 A

Despite this presumption, the Pennsylvania Supreme Court has adopted Comment K to Section 402 A. See *Hahn v. Richter*, 543 Pa. 558, 563, 673 A.2d 888, 891 (1996). Comment K deals with products that are “unavoidably unsafe.”

[5] Products Liability 313 A

Comment k and the Pennsylvania Supreme Court recognize, a prescription drug, ‘properly prepared, and accompanied by proper directions and warning, is not defective,



nor is it *unreasonably* dangerous.’” (quoting *Hahn*, 543 Pa. at 560 n. 2, 673 A.2d at 890 n. 2 (emphasis in original) (quoting, in turn, RESTATEMENT (SECOND) OF TORTS § 402A cmt. k))) as discussed in *Lance v. Wyeth*, 624 Pa. 231, 247, 85 A.3d 434, 443 (2014).

#### [6] Pleadings 302

A defendant may not under the guise of a demurrer seek to rewrite allegations in a complaint. In other words, a demurrer may not aver the existence of facts not “apparent from the face of the challenged pleading.” *Martin v. Dep’t of Transp.*, 124 Pa.Cmwlth. 625, 556 A.2d 969, 971 (1989). Reliance on such missing facts amounts to an impermissible speaking demurrer. *Mobley v. Coleman*, 65 A.3d 1048 (Pa. Cmwlth. 2013).

#### [7] Products Liability 313 A

No Pennsylvania Appellate Court has applied Comment K to *per se* foreclose claims of strict liability involving all prescribed medical devices. Distinguishing *Creazzo v. Medtronic, Inc.*, 903 A.2d 24, 31 (Pa. Super. 2006).

#### [8] Courts 106

It is axiomatic that the holding of a judicial decision is to be read against its facts.” *Lance v. Wyeth*, 624 Pa. 231, 264, 85 A.3d 434, 453 (2014).

#### [9] Products Liability

Pennsylvania Courts should “not slavishly adhere to the language of 402A, the rule enunciated there, as with other non-statutory declarations, is a common law pronouncement by the court, which always retains the right and the duty to test the reason behind a common law rule in determining the applicability of such a rule to the facts before it.” *Cafazzo v. Cent. Med. Health Servs., Inc.*, 542 Pa. 526, 530, 668 A.2d 521, 523 (1995) citing *Coyle v. Richardson–Merrell, Inc.*, 526 Pa. 208, 212, 584 A.2d 1383, 1385 (1981).

#### [10] Action Torts 13

The Pennsylvania Supreme Court in *Tincher v. Omega Flex, Inc.*, has not adopted a labels approach to excluding certain products from 402A strict liability. Where either no immunity exists, or the legislative branch created exceptions to an immunity legislatively conferred, the default general rule of possible liability operates. *Tincher v. Omega Flex, Inc.*, 628 Pa. 296, 410, 104 A.3d 328, 396 (2014)

#### [11] Products Liability 313 A

For a strict liability design defect claim, Pennsylvania Law requires that the plaintiff must establish that the product was unsafe for its intended user. *Phillips v. Cricket Lighters*, 576 Pa. 644, 657, 841 A.2d 1000, 1007 (2003).

#### [12] Products Liability 313 A

For 402A purposes, the term “User” is defined as including those who are passively enjoying the benefit of the product. *Riley v. Warren Mfg., Inc.*, 455 Pa.Super. 384, 395–96, 688 A.2d 221, 227 (1997) citing RESTATEMENT (2d) TORTS § 402A, Comments (l) and (o).

[13] Negligence 272 and Pleading 302

For purposes of pleading, specific allegations of negligence and general allegations of recklessness are sufficient to meet the requirements of Rule 1019(a) and (b). *Monroe v. CBH20, LP*, 286 A.3d 785, 800 (Pa. Super. 2022).

### MEMORANDUM AND ORDER

Before the court is a preliminary objection filed by the Defendant Medicare Equipment Company LLC (“Medcare”). The Plaintiff, April Vogel, commenced this action on January 3, 2023, and later filed an Amended Complaint on June 30, 2023. The Amended Complaint added Medical Depot, Inc. and Catalina Cylinders, Inc. as defendants. The Amended Complaint consists of six counts, two directed against Medicare for negligence and strict liability. The other four counts are for the same causes of action against Medical Depot, Inc. and Catalina Cylinders, Inc.

On July 19, 2023, Medicare filed preliminary objections to the Amended Complaint. Medicare asserted a demurrer to Count II of Ms. Vogel’s Amended Complaint, that asserts a claim of strict liability, and seeks punitive damages. Medicare adds that Ms. Vogel’s claim for punitive damages fails to conform to law or rule of court.

#### *Standard of Review*

[1]When considering preliminary objections such as a demurrer or an objection asserting the failure to conform to law or rule of court, an examination is done of the challenged pleading. See *Jordan v. Pennsylvania State Univ.*, 276 A.3d 751, 770 (Pa. Super. 2022)<sup>1</sup> (which sustained a failure to conform objection where an amended complaint failed to conform with a prior court order.) In those circumstances, a trial court is required to treat as true all well-pleaded material, factual averments and all inferences fairly deducible therefrom. Where the preliminary objections will result in the dismissal of the action, the objections may be sustained only in cases that are clear and free from doubt. To be clear and free from doubt that dismissal is appropriate, it must appear with certainty that the law would not permit recovery by the plaintiff upon the facts averred. *Burgoyne v. Pinecrest Community Ass’n*, 924 A.2d 675, 679 (Pa.Super. 2007) as cited in *Ira G. Steffy & Son, Inc. v. Citizens Bank of Pennsylvania*, 7 A.3d 278, 282–83 (Pa. Super. 2010).

#### *Pleading Record*

According to Ms. Vogel, she resides with Delbert Johnson, a non-party to this case, who in 2016 purchased a home oxygen system (“system”). Medicare manufactured, designed and provided the system to Mr. Johnson.<sup>2</sup> Medicare knew the system was to be used in Mr. Johnson’s home.<sup>3</sup> Further, Ms. Vogel states that Medicare knew or should have known that Mr. Johnson required assistance with the system and that Ms. Vogel would be exposed to the risks that the system posed.

Ms. Vogel charges that Medicare knowingly provided a system to end users without a manual that detailed the attendant risks of using the system. Ms. Vogel adds that such systems require periodic inspections, repairs and maintenance to avoid leaks developing.<sup>4</sup> However, Ms. Vogel states that Medicare informed Mr. Johnson that no inspections of the system were necessary.<sup>5</sup>

Ms. Vogel relates that on October 10, 2021, the system leaked oxygen, acted as an accelerant, and ignited materials near to her hand. Ms. Vogel’s hand was “engulfed” in a “large, hot, and uncontrolled burning flame.” As a result, Ms. Vogel suffered serious burns, scarring, and mental distress. Further, she alleges that she has incurred medical expenses and will have to pay additional future medical charges related to her injuries.<sup>6</sup>

### **Medicare Objections**

First, Medicare argues that a home oxygen system is a prescription product. Citing comment (k) of Section 402A of the Restatement Second of Torts, Medicare argues that Pennsylvania Law does not allow for recovery for prescription products. Medicare explains that since a home oxygen system is a prescription medical device, a strict products liability action is barred and thus, Ms. Vogels' claim should be dismissed with prejudice.

Second, Medicare asserts that Ms. Vogel was a "bystander" and not an intended user of the system. Medicare argues that Ms. Vogel must establish that she was an intended user of the product. On this basis, Medicare further contends that Ms. Vogels' strict product liability count should be dismissed.

Third, Medicare seeks to strike Ms. Vogel's claim for punitive damages. Medicare relies on a stipulation that struck all punitive damages claims. The parties executed that stipulation prior to the filing of the Amended Complaint. On this basis, Medicare contends that Ms. Vogel's claim violates the parties' stipulation. In the alternative, Medicare argues that Ms. Vogel did not sufficiently allege an "evil motive" on Medicare's part. For these reasons, Medicare submits that Ms. Vogel's Amended Complaint does not support a claim for punitive damages.

#### **Analysis-Section 402A comment (k)**

[2] In 1966, the Supreme Court of Pennsylvania adopted Section 402A of the Restatement(Second) of Torts to evaluate whether a product was defective. *Webb v. Zern*, 220 A.2d 853, 854 (Pa. 1966) (adopting Section 402A). Pennsylvania recognizes three types of defective conditions that can give rise to strict liability: design defect, manufacturing defect, and failure to warn. *Phillips v. A-Best Prods. Co.*, 665 A.2d 1167, 1170 (Pa. 1995). Here, Ms. Vogel has pleaded that Medicare's home oxygen system is defective because it develops leaks and that Medicare failed to warn of that risk.<sup>7</sup>

[3] [4] Pennsylvania law presumes that products can be the subject of strict products liability suits. *Tincher v. Omega Flex, Inc.*, 104 A.3d 328, 382, 389 (Pa. 2014) (citing Restatement (Second) of Torts § 402A, cmt. b). Despite this presumption, the Pennsylvania Supreme Court has adopted Comment K to Section 402 A. See *Hahn v. Richter*, 543 Pa. 558, 563, 673 A.2d 888, 891 (1996).

#### **Hahn and Comment K**

[5] In *Hahn*, the Pennsylvania Supreme Court held that a trial court properly declined to instruct on strict liability in a case involving a failure to warn of the dangers of the intrathecal use of Depo Medrol. Citing to Comment K, the Court explained that "where the adequacy of warnings associated with prescription drugs is at issue, the failure of the manufacturer to exercise reasonable care to warn of dangers, i.e., the manufacturer's negligence, is the only recognized basis of liability." *Id.*

Comment K to Section 402 A states:

*k. Unavoidably unsafe products.* There are some products which, in the present state of human knowledge, are quite incapable of being made safe for their intended and ordinary use. These are especially common in the field of drugs. An outstanding example is the vaccine for the Pasteur treatment of rabies, which not uncommonly leads to very serious and damaging consequences when it is injected. Since the disease itself invariably leads to a dreadful death, both the marketing and the use of the vaccine are fully justified, notwithstanding the unavoidable high degree of risk which they involve. Such a product, properly prepared, and accompanied by proper directions and warning, is not defective, nor is it *unreasonably* dangerous. The same is

true of many other drugs, vaccines, and the like, many of which for this very reason cannot legally be sold except to physicians, or under the prescription of a physician. It is also true in particular of many new or experimental drugs as to which, because of lack of time and opportunity for sufficient medical experience, there can be no assurance of safety, or perhaps even of purity of ingredients, but such experience as there is justifies the marketing and use of the drug notwithstanding a medically recognizable risk. The seller of such products, again with the qualification that they are properly prepared and marketed, and proper warning is given, where the situation calls for it, is not to be held to strict liability for unfortunate consequences attending their use, merely because he has undertaken to supply the public with an apparently useful and desirable product, attended with a known but apparently reasonable risk.

RESTATEMENT (SECOND) OF TORTS, § 402A cmt. k.

The Pennsylvania Supreme Court has acknowledged that "Comment K is not itself a model of clarity." *Lance v. Wyeth*, 624 Pa. 260, 85 A.3d 451. Nevertheless, the Court has consistently recognized that "a prescription drug, 'properly prepared, and accompanied by proper directions and warning,' is not defective, nor is it *unreasonably* dangerous." *Lance v. Wyeth*, 624 Pa. 231, 247, 85 A.3d 434, 443 (2014).<sup>8</sup>

#### **Comment K and Ms. Vogel's claim**

Here, Ms. Vogel's claim does not involve a prescription drug. Instead, Ms. Vogel alleges that she was harmed by "medical equipment" provided by Medicare to Mr. Johnson.<sup>9</sup> Conspicuously absent from Comment K is any mention of medical equipment such as oxygen tanks. More significantly, conspicuously absent from Ms. Vogel's Amended Complaint are any allegations indicating that Medicare's home oxygen system is a product which, in the present state of human knowledge, "is quite incapable of being made safe for" its "intended and ordinary use."

Indeed, Ms. Vogel alleges the opposite where she avers that Medicare's home oxygen system requires regular inspections of seals, fittings and connectors to prevent leaks.<sup>10</sup> One may infer that regular inspections provide the system with a capability to be safe for its intended and ordinary use.

The parties do not cite and this court's research has not uncovered a Pennsylvania Appellate Court decision that applies Comment K to oxygen tanks or medical equipment. Undeterred by these circumstances, Medicare invites this court to rely upon its speaking demurrer and an erroneous and overstated recitation of Comment K jurisprudence in Pennsylvania.

#### **Medicare's Comment K challenge**

[6] In particular, Medicare seeks to rewrite paragraphs 52, 53 and 56 of the Amended Complaint by informing this court that Mr. Johnson's home oxygen system was prescribed.<sup>11</sup> Those particular paragraphs and other parts of the Amended Complaint do not relate that the home oxygen system was prescribed.<sup>11</sup>

Medicare's demurrer may not aver the existence of facts not "apparent from the face of the challenged pleading." *Martin v. Dep't of Transp.*, 124 Pa.Cmwlth. 625, 556 A.2d 969, 971 (1989). Reliance on such missing facts amounts to an impermissible speaking demurrer. *Mobley v. Coleman*, 65 A.3d 1048 (Pa.Cmwlth.2013). Further, as a matter of Federal Statutory law, oxygen does not necessarily require a prescription in all circumstances. See 21 U.S.C.A. § 360ddd-1 (West).<sup>12</sup>

Nonetheless, Medicare advocates that this court should employ a categorical carve out of home oxygen systems from 402A strict liability. Citing to Creazzo v. Medtronic, Inc., 903 A.2d 24, 31 (Pa. Super. 2006), and a Federal District Court decision from New Jersey, Medicare posits that Pennsylvania’s common law is uniform in its application of Comment K’s prohibition to all prescription medical device cases.<sup>13</sup> A close reading of Creazzo and a complete survey of the 101 decisions citing Creazzo, however, does not support Medicare’s view.

### *Creazzo and its limits*

[7] In Creazzo, the specific holding of the Superior Court was that the Plaintiffs *failed to demonstrate reversible error* in the trial court’s use of Comment K to reject their claim of strict liability for a surgical implant. Specifically, the device, at issue, was an Irel 3 Implantable Neurological Electrical Pulse Generator that was designed to alleviate chronic pain by passing an electrical stimulus through nerve structures in the dorsal aspect of the patient’s spinal cord by way of a stimulation lead. Creazzo v. Medtronic, Inc., 903 A.2d 26. With the benefit of a summary judgment record, the trial court concluded that given the potential utility of Irel 3, no significant distinction could be drawn between it and the use of Depo-Medrol at issue in Hahn. Creazzo, 903 A.2d at 31.<sup>14</sup>

On this record, the Superior Court then addressed the Plaintiffs’ claim that Comment K did not apply to medical devices. The Superior Court called out the Plaintiffs for their undeveloped argument as to Comment K. Specifically, the Court commented:

They cite no authority, however, for so restrictive an interpretation either of Comment K or of *Hahn*, nor do they provide significant analysis of the language they seek to apply.

Id.

In this context, the Superior Court then summarily rejected the Plaintiffs’ claim. The Court explained that “[w]e find no reason why the same rationale applicable to prescription drugs may not be applied to medical devices.” Id. After offering this explanation, the Superior Court then announced their holding that “Accordingly, we conclude that the Creazzos have failed to demonstrate reversible error in the trial court’s treatment of this issue. Their fourth question is without merit.” Id.

This statement reveals the Superior Court’s refusal to accept an argument undeveloped in the record and unsupported by caselaw. This statement is not a broad declaration of law announcing a per se bar on all strict liability claims involving medical devices. Such a determination involves an open question of law.

Certainly, the Creazzo panel possessed the authority to address that open question. However, “[w]hen open questions, or close questions, are presented to the intermediate appellate courts, they should look closely to (Supreme Court) precedent for guidance.” Walnut St. Associates, Inc. v. Brokerage Concepts, Inc., supra.

Indeed, to understand this distinction one need look no further for a comparison than to examine the Superior Court’s en banc opinion in Hahn, which the Supreme Court affirmed. In that opinion, the Superior Court Panel engaged in an extensive discussion of case precedent regarding strict liability. See Hahn v. Richter, 427 Pa. Super. 130, 143–44, 628 A.2d 860, 866–67 (1993). The en banc Court cited several Pennsylvania Supreme Court cases, Superior Court decisions, and published opinions from Federal Courts and courts of other states. Based upon that searching examination, the en banc court determined that the Pennsylvania Supreme Court’s “application of Comment K to all prescription drugs” precluded strict liability being imposed upon the manufacturer of Depo-Medrol. Hahn v. Richter, 427 Pa. Super. 146, 628 A.2d 868.

The en banc panel in Hahn did that fulsome evaluation of case authority not as a gratuitous academic exercise but rather because they were required to do so. See Walnut St. Associates, Inc. v. Brokerage Concepts, Inc., 610 Pa. 371, 391–92, 20 A.3d 468, 480 (2011) holding “[t]here is nothing improper in those courts (intermediate appellate courts) deciding new or close issues, consistently with their duty to master, and act consistently with, this Court’s teachings.”

This trial court does not presume that the erudite panel in Creazzo cast aside its duty to similarly conduct a fulsome examination of Supreme Court precedent and persuasive case authority concerning Comment K’s application to medical devices. Instead, other than a brief discussion of the Supreme Court’s ruling in Hahn, the Creazzo decision does not address other Supreme Court decisions, including the numerous authorities cited by the en banc panel in Hahn. The Creazzo decision does not provide a definition for the term “medical device,” nor does it discuss how all medical devices, as a class, meet Comment K requirements. Unlike the en banc Panel in Hahn, the Creazzo court did not address whether all medical devices are inherently dangerous and of limited legal accessibility through a prescription.

Judge Kate Ford Elliot was on both panels, and she dissented in Hahn. See Hahn v. Richter, 427 Pa. Super. 153-158, 628 A.2d 871-874. Clearly, if the Creazzo Panel had intended to decide the open question of whether Comment K applied to all strict liability claims involving medical devices, they would have engaged in a more searching analysis.

They did not do so because their holding was not so broad. This trial court’s review of Creazzo does not lead to the inescapable conclusion that the Superior Court intended to make a sweeping statement barring 402A liability for all medical devices. The Creazzo decision is not that explicit.

Instead, Creazzo states that the “same rationale” applicable to prescription drugs “may” apply in the context of a strict liability claim involving a medical device. Such a statement implicitly recognizes that restatement provisions adopted by the Supreme Court are not “controlling in the manner of a statute.” Coyle by Coyle v. Richardson-Merrell, Inc., 526 Pa. 208, 584 A.2d 1383, 1385 (1991).<sup>15</sup> Such a statement contemplates a case by case approach as opposed to a categorical bar to all claims that involve medical devices.

In other words, the Superior Court in Creazzo rejected the Plaintiffs’ meager attempt to broadly exempt all medical devices from Comment K’s reach. See Creazzo v. Medtronic, Inc., 903 A.2d at 31, where the Court characterized the Plaintiffs’ argument as too “restrictive” and lacking in “analysis.” Id. To this point, the Court noted that the Plaintiffs failed to support their argument with case authority. In this context, the Creazzo Court added that it found “no reason why the same rational(e) applicable to prescription drugs *may not be* applied to medical devices.” Id.

Indeed, no Pennsylvania Appellate Court has cited Creazzo for the principle that Comment K *per se* forecloses claims of strict liability involving all prescribed medical devices. As discussed above, Creazzo has been cited in 101 decisions that are available on Westlaw. Of those 101 decisions, the Supreme Court<sup>16</sup> and the Commonwealth Court<sup>17</sup> have each cited Creazzo one time regarding spoilation. The Superior Court, itself, has cited Creazzo 21 total times broken down as follows: 15 times for principles regarding spoilation;<sup>18</sup> 3 times for the standard of review when considering a summary judgment motion;<sup>19</sup> and 5 times for rules regarding waiver and undeveloped appellate arguments.<sup>20</sup> None of the decisions from Pennsylvania’s three (3) Appellate Courts cited Creazzo for a holding that applied Comment K of § 402A to strict liability claims in-

volving medical devices.

Instead, viewed in its proper context, the Creazzo decision addresses what a plaintiff failed to do to defeat a summary judgment motion and what that litigant later failed to do in appealing the grant of summary judgment. As to the applicability of Comment K, at most, Creazzo is narrow precedent for Comment K's possible application to some medical devices. To conclude otherwise, is to attribute to Creazzo a holding that the learned Panel did not see fit to expressly state themselves.

### ***Medical Device Strict Liability Claims in Pennsylvania Appellate Courts***

Notably, Pennsylvania's Highest Court has determined cases where a plaintiff brought a strict liability claim regarding a medical device. See Beard v. Johnson & Johnson, Inc., 615 Pa. 99, 41 A.3d 823, 836–37 (2012) where the plaintiff brought "a medical-device product liability action in which a strict-liability, design-defect theory was asserted." with respect to a linear cutting and stapling instrument, used in place of traditional scalpel-and-suture techniques in various surgical applications. 41 A.3d at 824. The Supreme Court did not discuss Comment K's application in Beard and dismissed the claims on the basis of the risk utility test. Likewise, in multiple strict liability cases involving medical devices, the same Pennsylvania Supreme Court that determined Hahn did not apply Comment K.

For instance, in Green v. Dolsky, 546 Pa. 400, 415, 685 A.2d 110, 118 (1996), the Supreme Court rejected a strict liability action involving collagen implants. The Court rested its decision not on Comment K and its place in Pennsylvania common law, but upon *Pennsylvania's common law strict products liability being preempted by the Medical Device Amendments to the Food and Drug Act*. The High Court wrote "[t]o allow a strict liability claim for a product specifically approved by the FDA would be to impose "requirements" which are different from those of the FDA and which affect the safety of the device, in violation of § 360k." This decision begs the question, for a common law claim to be preempted by a federal statute does not such a claim have to exist at common law.

In Cafazzo v. Cent. Med. Health Servs., Inc., 542 Pa. 526, 531, 668 A.2d 521, 524 (1995), the High Court did not rely upon Comment K to reject claims that a physician and a hospital should be strictly liable for a defective mandibular prosthesis. While acknowledging that the manufacturer was "in bankruptcy, and unable to sustain liability" the Supreme Court rejected a strict liability claim against a surgeon and a hospital. The Court did not rely upon Comment K in its refusal to extend liability to health care practitioners. The Court did not consider that a mandibular prosthesis was an "unavoidably unsafe product." Instead, the Court concluded that physicians and hospitals were not "sellers, providers, suppliers or distributors of products such as to activate 402A." Cafazzo v. Cent. Med. Health Servs., Inc., 542 Pa. 526, 534, 668 A.2d 521, 525 (1995).<sup>21</sup>

In summary, Pennsylvania State Appellate Courts have not categorically exempted medical devices, whether prescribed or not, from strict liability under Comment K. Gross v. Coloplast Corp., 434 F.Supp.3d 245, 250–52 (E.D. Pa. 2020).

### ***Federal Trial Court application of Comment K***

Medicare's argument adopts a view expressed by several Federal District Courts. See Mills v. Ethicon, Inc., 406 F.Supp.3d 363, 370 (D.N.J. 2019) which held that "[l]ike every court before me, I conclude that Pennsylvania law bars Mills's strict liability design defect and failure-to-warn claims regarding this medical device."<sup>22</sup> The New Jersey District Court concluded that "[t]he Pennsylvania Supreme Court would

likely hold that, for policy reasons and as a matter of logic, these arguments apply equally to prescription drugs and medical devices." Id. 380.

However, the Mills ruling rests on case authority now called into question by other Pennsylvania Federal District Courts. Indeed, in the last seven (7) years, several Federal District Courts in Pennsylvania have concluded that Comment K may not preclude all strict liability claims involving any and all medical devices.

In 2016, the Eastern District of Pennsylvania "called into doubt" the belief that Creazzo represented a per se bar on all strict liability claims involving medical devices. Judge Stengel observed:

Indeed, it is telling that in the decade since the Pennsylvania Superior Court decided Creazzo, the Pennsylvania Supreme Court has only cited Creazzo one time in a footnote. It has never relied on, adopted, or even addressed Creazzo's rationale that medical device manufacturers cannot be subject to strict liability claims. This certainly calls into question other courts' assumptions that the Pennsylvania Supreme Court would adopt Creazzo and apply Comment K to medical device manufacturers in the same way it has applied Comment K to prescription drug manufacturers. In fact, quite the opposite can be inferred from the Pennsylvania Supreme Court's decisional law.

See Wagner v. Kimberly-Clark Corp., 225 F.Supp.3d 311, 317–18 (E.D. Pa. 2016) which predicted that "the Pennsylvania Supreme Court would permit a strict liability claim for a manufacturing defect in a medical device." Id. at 318-319.

Directly contradicting Mills' claim of unanimity in Federal Trial Courts, a series of Federal District Courts have refused to apply Comment K to bar strict liability design defect and failure to warn claims involving medical devices. See Gross v. Coloplast Corp., 434 F.Supp.3d 245, 251 (E.D. Pa. 2020) which denied a 12(b)(6) motion to dismiss a complaint asserting design defect, manufacturing defect and failure to warn claims involving an allegedly defective pelvic mesh product; Schrecengost v. Coloplast Corp., 425 F.Supp. 3d 448, 463-466 (W.D. Pa. 2019) (Gibson, J.) which ruled that strict liability design defect and failure to warn claims against manufacturers of a prescribed surgical mesh implant were cognizable in Pennsylvania; Spear v. Atrium Med. Corp., 621 F.Supp.3d 553, 557 (E.D. Pa. 2022) holding that Comment K does not provide categorical bars to strict liability in design defect and failure to warn claims related to medical devices; and Cohen v. Johnson & Johnson, 634 F.Supp.3d 216, 228 (W.D. Pa. 2022) concluding "that the Pennsylvania Supreme Court likely would conclude that strict liability claims are cognizable against medical device manufacturers, and that the extension of Comment K to bar strict liability claims may only apply as to certain medical devices and only when as evaluated on a case-by-case basis and only after consideration of the full and developed factual record."<sup>23</sup>

For these reasons, Medicare's reliance on Mills is misplaced. Though Mills indicates that "as a matter of logic" the Pennsylvania Supreme Court would apply Comment K to medical devices, such a conclusion was based on two premises having questionable validity. First, the New Jersey Court in Mills states that it was "persuaded by the analysis of the Pennsylvania Superior Court in Creazzo." However, as discussed above, the critical holding of Creazzo is that the Plaintiffs' lack of analysis prompted the Court to avoid a broad consideration of Comment K and all medical devices. Second, the Mills Court's appeal to the common opinion of "all Federal Courts" is no longer tenable because Mills does not reflect the rulings of several published Pennsylvania Federal District Courts.

***Comment K may not apply to Ms. Vogel***

[8] [9]“It is axiomatic that the holding of a judicial decision is to be read against its facts.” Lance v. Wyeth, 624 Pa. 231, 264, 85 A.3d 434, 453 (2014). In other words, Pennsylvania Courts should “not slavishly adhere to the language of 402A, the rule enunciated there, as with other non-statutory declarations, is a common law pronouncement by the court, which always retains the right and the duty to test the reason behind a common law rule in determining the applicability of such a rule to the facts before it.” Cafazzo v. Cent. Med. Health Servs., Inc., 542 Pa. 526, 530, 668 A.2d 521, 523 (1995) citing Coyle v. Richardson–Merrell, Inc., 526 Pa. 208, 212, 584 A.2d 1383, 1385 (1981).

As discussed above, Creazzo involved an alleged defective medical device surgically implanted into the bodies of patients. Whether Creazzo applies to a medical device that is not implanted in a patient’s body remains an open question in Pennsylvania. As related above, no Pennsylvania Appellate Court has extended Comment K to claims involving other types of medical devices.

This trial court must heed the Pennsylvania Supreme Court’s warning that a litigant’s attempt to seek “a bright-line, substantive rule of prohibition across broad classes of cases . . . is in tension with the nature of common-law lawmaking.” Lance v. Wyeth, supra. Putting aside Medicare’s speaking demurrer, setting a bright line that prohibits strict liability claims for all prescribed medical devices may not be done on the basis of the Amended Complaint and Preliminary Objections filed in this case. Such a cavalier approach is not sanctioned by the Pennsylvania Supreme Court.

[10] The Pennsylvania Supreme Court in Tincher v. Omega Flex, Inc., did not adopt a labels approach to excluding certain products from 402A strict liability. The Court explained:

this jurisdiction’s experience with the repercussions of attempting to articulate specific principles of liability of broad application in implementing the strict liability cause of action make us reticent to go far beyond the necessities of an individual case and embrace a broad new approach premised upon what may prove to be procrustean categorical restrictions.

Tincher v. Omega Flex, Inc., 628 Pa. 409, 104 A.3d 396.

Here, the record is far from clear and undisputed that the oxygen tank that ignited and harmed Ms. Vogel is an unavoidably unsafe product. In this circumstance, Medicare’s invitation for this court to engage “in blanket judicial lawmaking is particularly unwise.” James v. United States, CV 19-04627, 2020 WL 1624883, at \*3 (E.D. Pa. Apr. 2, 2020).

***Intended User Objection***

Medicare contends that Ms. Vogel is a bystander and not an intended user of the oxygen system that injured her. On this basis, Medicare asserts that Ms. Vogel is neither a “user or consumer of the product.”<sup>24</sup>

[11] For a strict liability design defect claim, Pennsylvania Law requires that the plaintiff must establish that the product was unsafe for its intended user. Phillips v. Cricket Lighters, 576 Pa. 644, 657, 841 A.2d 1000, 1007 (2003). In Phillips, a two (2) year old child took a butane lighter from his mother’s purse and ignited linens. Tragically, he, a sibling and his mother died in the ensuing fire that engulfed their apartment. The Supreme Court ruled that a design defect claim was not actionable. In doing so, the Court concluded:

...that in a strict liability design defect claim, the plaintiff must establish that the product was unsafe for its intended user. We also explicitly state that a manufacturer will not be held strictly liable for failing to design a product that was safe for use by any reasonably foreseeable user as such a standard would improperly import negligence concepts into strict liability law.

Phillips v. Cricket Lighters, 576 Pa. 644, 657, 841 A.2d 1000, 1007 (2003). Critically, in Phillips, the Plaintiff did not contest that the butane lighter was intended to be used solely by adults, and also did not contend that as designed, the lighter was unsafe for use by such adults. Phillips v. Cricket Lighters, 576 Pa. 657, 841 A.2d 1007.

Here, Ms. Vogel’s Amended Complaint describes a different circumstance. Ms. Vogel has alleged that she is an adult individual residing in the home where the system was used.<sup>25</sup> Ms. Vogel alleges that Medicare knew that its oxygen system was to be used in Ms. Vogel’s residence.<sup>26</sup> Ms. Vogel added that Medicare put the system into her possession.<sup>27</sup> She further alleged several defects in Medicare’s home oxygen system that made it unsafe for all users.<sup>28</sup> Ms. Vogel has not alleged that the home oxygen system was intended to be used “solely” by someone other than an adult within her home.

Ms. Vogel’s allegations permit the inference that she was a “user” of the home oxygen system. For 402A purposes, the term “User” is defined as including:

“...those who are passively enjoying the benefit of the product, as in the case of passengers in automobiles or airplanes, as well as those who are utilizing it for the purpose of doing work upon it, as in the case of an employee of the ultimate buyer who is making repairs upon the automobile which he has purchased.”

Riley v. Warren Mfg., Inc., 455 Pa.Super. 384, 395–96, 688 A.2d 221, 227 (1997) citing RESTATEMENT (2d) TORTS § 402A, Comments (l) and (o). The Amended Complaint indicates that Medicare placed the home oxygen system into Ms. Vogel’s possession and that she was “interacting” with Medicare’s system when she was harmed.<sup>29</sup>

The Amended Complaint does not include allegations that otherwise show Ms. Vogel to be akin to a casual bystander. To conclude otherwise, would require this court to draw circumstantial inferences that favor Medicare. The standard of review for a demurrer does not permit this court to do so. “To evaluate a demurrer . . . the court must accept as true all material averments of the complaint and may sustain the demurrer only if the law will not permit a recovery.” Mistick, Inc. v. Nw. Nat. Cas. Co., 806 A.2d 39, 42 (Pa. Super. 2002).

***Punitive Damages***

Finally, Medicare objects to Ms. Vogel’s request for punitive damages. Medicare asserts that the claim for punitive damages contradicts an earlier stipulation of the parties. Medicare also asserts that Ms. Vogel insufficiently pleaded her claim for punitive damages.

Punitive damages are penal in nature and are proper only in cases where the defendant’s actions are so outrageous as to demonstrate willful, wanton or reckless conduct. See SHV Coal, Inc. v. Continental Grain Co., 526 Pa. 489, 587 A.2d 702, 704 (1991). 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 that (2) he acted, or failed to act, as the case may be, in conscious disregard of that risk. Hutchison ex rel. Hutchison v. Luddy, 582 Pa. 114, 124, 870 A.2d 766, 772 (2005).

[13] Pennsylvania Rule of Civil Procedure 1019(b) provides: “Malice, intent, knowledge, and other conditions of the mind may be averred generally.” Pa.R.C.P. 1019. Because recklessness is also known as “wanton and willful misconduct,” “recklessness” is a condition of the mind that may be averred generally. Archibald v. Kemble, 971 A.2d 513, 519 (Pa. Super. 2009) For purposes of pleading, specific allegations of negligence and general allegations of recklessness are sufficient to meet the requirements of Rule 1019(a) and (b). Monroe v. CBH20, LP, 286 A.3d 785, 800 (Pa. Super. 2022).

In this case, Ms. Vogel has complied with Rule 1019 pleading requirements and has sufficiently alleged a factual basis to support the award of punitive damages. In Counts I and II of the Amended Complaint, she has generally alleged Medicare’s reckless conduct and specifically averred its conscious disregard of known risks that its home oxygen system posed to Ms. Vogel.<sup>30</sup>

As for the parties’ stipulation, it provided that claims of punitive damages were “stricken” from the case without prejudice. Ms. Vogel could seek punitive damages in any one of three (3) circumstances. First, she could do so following discovery, “if appropriate.” Second, she could do so with agreement of the parties. Third, she could obtain leave of court permitted pursuant to Rule 1033.

On May 4, 2023, this court permitted Ms. Vogel to file an amended complaint and to do so on or before June 30, 2023. On June 9, 2023, the parties executed their stipulation. Their stipulation did not expressly override this court’s May 4, 2023 order. Such order placed no limit on the type of amendment that Ms. Vogel could file.

#### ORDER

AND NOW, this 18<sup>th</sup> day of January, 2024, Defendant Medicare Equipment Company LLC’s preliminary objections to the Plaintiff’s Amended Complaint are OVERRULED. On or before February 18, 2024, Defendant Medicare Equipment Company LLC shall file and serve an Answer to the Amended Complaint.

BY THE COURT

/s/ J. MICHAEL J. LUCAS

#### Endnotes

<sup>1</sup> reargument denied (July 13, 2022), appeal denied, 296 A.3d 1081 (Pa. 2023), reconsideration denied (June 22, 2023), and cert. denied sub nom. Jordan v. PA State Univ., 23-5614, 2023 WL 8007552 (U.S. Nov. 20, 2023)

<sup>2</sup> Amended Complaint ¶ 51-52, and 59.

<sup>3</sup> Amended Complaint ¶ 61

<sup>4</sup> Amended Complaint ¶ 62, 63 66,

<sup>5</sup> Amended Complaint ¶ 71.

<sup>6</sup> Amended Complaint ¶ 74, 75, 79-83 and 88-89.

<sup>7</sup> Amended Complaint ¶ 62 r and s, and 65-71.

<sup>8</sup> Citing Hahn v. Richter, 543 Pa. 558, 563, 673 A.2d at 889.

<sup>9</sup> Amended Complaint ¶ 48 and 52.

<sup>10</sup> Amended Complaint ¶ 62 r and s.

<sup>11</sup> Medicare Preliminary Objections ¶ 13.

<sup>12</sup> U.S.C.A. § 360ddd-1 provides in part:

#### (2) Oxygen

##### (A) No prescription required for certain uses

Notwithstanding paragraph (1), oxygen may be provided without a prescription for the following uses:

(i) For use in the event of depressurization or other environmental oxygen deficiency.

(ii) For oxygen deficiency or for use in emergency resuscitation, when administered by properly trained personnel.

21 U.S.C.A. § 360ddd-1 (West)

<sup>13</sup> Medicare Preliminary Objections ¶ 11-12.

<sup>14</sup> The Superior Court summarized that “the trial court reasoned that given the potential utility of the Itriel 3, no significant distinction can be drawn between the device and the drug upon which the Supreme Court based its decision in Hahn.”

<sup>15</sup> In describing ALI Restatements, the Pennsylvania Supreme Court has recently explained that:

The Restatements are the product of the American Law Institute, “a non-profit organization of 4000 lawyers, judges, and law professors, established to produce scholarly work to clarify, modernize, and otherwise improve the law.” Tincher, 104 A.3d at 353 n.6. They “synthesi[ze] ... the common law [and] articulate[ ] the reasoned, mainstream, modern consensus.” Scampone v. Highland Park Care Ctr., LLC, 618 Pa. 363, 57 A.3d 582, 606 (2012). To be sure, even when restatement provisions have been adopted by this Court, they are not “controlling in the manner of a statute.” Coyle by Coyle v. Richardson-Merrell, Inc., 526 Pa. 208, 584 A.2d 1383, 1385 (1991). But the Restatements’ reasoned, mainstream determination to recognize a cause of action for aiding and abetting fraud represents persuasive authority for us to determine likewise.

Marion v. Bryn Mawr Tr. Co., 288 A.3d 76, 86 (Pa. 2023).

<sup>16</sup> See Pyeritz v. Com., 32 A.3d 687, 692 (Pa. 2011) where the Supreme Court cited Creazzo in a footnote (N.5) when discussing sanctions for first party spoliation.

<sup>17</sup> See King v. Pittsburgh Water and Sewer Authority, 139 A.3d 336, 345 (Pa.Cmwlt. 2016) which stated that “[t]he decision of whether, and how, to sanction a party rests within the sound discretion of the trial court. Creazzo v. Medtronic, Inc., 903 A.2d 24 (Pa.Super.2006).”

<sup>18</sup> See Carpenter v. Master Remodelers, Inc. 2017 WL 6614850; It’s All Wireless, Inc. v. Fisher, 2016 WL 5338574; Vitez v. Marmaxx Operating Corp., 2016 WL 1533551; EQT Production v. Bochter, 2015 WL 6750778; Raintree Homes Inc. v. Birbeck, 2010 WL 5577022 and 2013 WL 5234255; Kinder v. Heritage Lower Salford LP, 2017 WL 2333765; Scott v. Atlanta Partners, LLC, 2016 WL 7103914; Liberty Mutual Insurance v. Sanders, 2016 WL 6962111; Lane v. CBS Broadcasting, Inc., 2015 WL 7455940; Parr v. Ford Motor Co., 109 A.3d 682, 702 (Pa. Super. 2014); Bowser v. Albert Einstein Medical Center, 2014 WL 10917588; Jones v. AHF/Montgomery, Inc., 2013 WL 11266144; PTSI, Inc. v. Haley, 71 A.3d 304, 316 (Pa. Super. 2013); and Papadoplos v. Schmidt, Ronca & Kramer, 21 A.3d 1216, 1217, N.1 (Pa. Super. 2011).

<sup>19</sup> See Wells Fargo Bank, N.A. for Registered Holders of GE Business Loan Trust Certificates. Series 2005-2 v. Premier Hotels Group, LLC, 2017 WL 2928789 (Dissent J. Lazarus); Kennedy v. Consol Energy, 116 A.3d 626, 637 (Pa. Super. 2014) and Trizechahn Gateway, LLC v. Titus, 930 A.2d 524, 547 (Pa. Super. 2007).

<sup>20</sup> See McAteer v. State Farm Mut. Auto Ins. Co., 2014 WL 10987446 stating “Appellant develops no argument related to the trial court’s determinations that it was

bound by the 2004 ruling transferring venue to Bucks County and that she failed to assert a specific contractual basis that permitted venue in any county in which she resided at the time of filing her petition. Accordingly, we have no basis on which to grant relief. See Pa.R.A.P. 302(a), 2119(a); Creazzo v. Medtronic, Inc., 903 A.2d 24, 28 (Pa.Super.2006);” Duncan v. Farabaugh, 2013 WL 11253357; Rettger v. UPMC Shadyside, 991 A.2d 915, 932 (Pa. Super. 2010); State Farm Insurance Company v. McAteer, 2019 WL 1056810; and Advanced Construction Services, Inc. v. Cumberland Dining Group, Inc., 2013 WL 11250782.  
McAteer v. State Farm Mut. Auto. Ins. Co., 1428 EDA 2013, 2014 WL 10987446, at \*3 (Pa. Super. Ct. Jan. 7, 2014)

<sup>21</sup> Instead of finding that the defective mandibular prosthesis was an unavoidably unsafe product, the Court explained:

...to ignore the ancillary nature of the association of product with activity is to posit surgery, or indeed any medical service requiring the use of a physical object, as a marketing device for the incorporated object. This is tantamount to deciding that the surgical skills necessary for the implantation of, e.g., mandibular prostheses, are an adjunct to the sale of the implants. Moreover, under such a theory, no product of which a patient in any medical setting is the ultimate consumer, from CT scanners to cotton balls, could escape the assignment of strict liability. Clearly, the relationship of hospital and/or doctor to patients is not dictated by the distribution of such products, even if there is some surcharge on the price of the product

Cafazzo v. Cent. Med. Health Servs., Inc., 542 Pa. 526, 531, 668 A.2d 521, 524 (1995).

<sup>22</sup> Medicare Preliminary Objections ¶ 12.

<sup>23</sup> The list of Federal District Courts reaching a similar conclusion is growing. See Moultrie v. Coloplast Corp., CV 18-231, 2020 WL 1249354, at \*10 (W.D. Pa. Mar. 16, 2020) which rejected the argument that Pennsylvania product liability law does not recognize claims that are based upon prescription-only medical devices; Goodling v. Johnson & Johnson, 4:21-CV-00082, 2022 WL 414285, at \*4 (M.D. Pa. Feb. 10, 2022) which predicted that “the Pennsylvania Supreme Court would not categorically [bar strict liability claims against] all prescription medical device manufacturers;” Ebert v. C.R. Bard, Inc., 459 F.Supp.3d 637, 652 (E.D. Pa. 2020) and

Patchcoski v. W.L. Gore & Associates, Inc., CV 3:19-1556, 2020 WL 4335016, at \*10 (M.D. Pa. July 28, 2020) which 2 years earlier made the same prediction.

<sup>24</sup> Medicare Preliminary Objections ¶ 16.

<sup>25</sup> Amended Complaint ¶ 5,

<sup>26</sup> Amended Complaint ¶ 58 and 60.

<sup>27</sup> Amended Complaint ¶ 72-74.

<sup>28</sup> Amended Complaint ¶ 62.

<sup>29</sup> Amended Complaint ¶ 52, 72-74 and 79-82.

<sup>30</sup> Amended Complaint ¶ 90, 103, 105-108, 110 and 122.

<sup>31</sup> Stipulation 6/9/23 ¶ 4.

## ESTATE NOTICES

### FIRST PUBLICATION

#### **Agnew, John M.**

Late of Eighty Four  
Washington Co., PA  
File No. 63-24-0605

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Dana Augustine, 605 N. Atlantic Ave., Unit 104, Collingwood, NJ 08108

\_\_\_\_\_ WCR Vol 104 Issues 45.46.47

#### **Bertovich, David**

Late of Fallowfield Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Shane P. Bertovich, 9 Reservoir Ave., Charleroi, PA 15022

Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

\_\_\_\_\_ WCR Vol 104 Issues 45.46.47

#### **Bolinger, Craig A.**

a/k/a Craig Allen Bolinger, Sr.  
a/k/a Craig Bolinger  
Late of Smith Twp.  
Washington Co., PA  
File No. 63-24-0717

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

dent to make payment to the Executrix without delay.

Executrix: Jennifer Bolinger, 185 Atlas Cherry Valley Rd., Burgettstown, PA 15021

Attorney: Taylor J. Johns, Esq., The Estate Planning Centers at Coulter & May, PC, 384 Northern Pike, Ste. 801B, One Monroeville Ctr., Monroeville, PA 15146  
\_\_\_\_\_ WCR Vol 104 Issues 45.46.47

#### **Breinig, Harold D.**

Late of Washington Co., PA  
File No. 63-24-0684

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Co-Executors or attorney, and all persons indebted to the decedent to make payment to the Co-Executors without delay.

Co-Executors: David Breinig, 6438 Union Ave., Finleyville, PA 15332; Donald Breinig, 3593 Washington Ave., Finleyville, PA 15332,

Attorney: Sarah A. Scott, Esq., Sweat Law Offices, 375 Valleybrook Rd., Ste. 112, McMurray, PA 15317

\_\_\_\_\_ WCR Vol 104 Issues 45.46.47

#### **Breinig, Nancy L.**

Late of Washington Co., PA  
File No. 63-24-0685

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Co-Executors or attorney, and all persons indebted to the decedent to make payment to the Co-Executors without delay.

Co-Executors: David Breinig, 6438 Union Ave., Finleyville, PA 15332; Donald Breinig, 3593 Washington Ave., Finleyville, PA 15332,

Attorney: Sarah A. Scott, Esq., Sweat Law Offices, 375 Valleybrook Rd., Ste. 112, McMurray, PA 15317

\_\_\_\_\_ WCR Vol 104 Issues 45.46.47



**Brookman, Sr., Donald C.**

Late of Buffalo Twp.  
Washington Co., PA  
File No. 63-24-0614

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Donald C. Brookman, Jr., 50 Gorby Rd., Washington, PA 15301  
Attorney: Edward J. Morascyzk, Esq., Morascyzk, Yarosz & Morascyzk, 382 W. Chestnut St., Ste. 102, Washington, PA 15301

WCR Vol 104 Issues 45,46,47

**Caster, George P.**

Late of Chartiers Twp.  
Washington Co., PA  
File No. 63-24-0612

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Rheynee Petros, 139 Cummins Ave., Houston, PA 15342  
Attorney: Linda C. Lewis, Esq., PO Box 552, Clearfield, PA 16830

WCR Vol 104 Issues 45,46,47

**Faight, Anna Mae**

Late of McMurray  
Washington Co., PA  
File No. 63-24-0672

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Melissa A. Bizyak, 116

Lampliter Ln., McMurray, PA 15317  
Attorney: Christine B. Murphy, Esq., Zacharia Brown Law Offices, 111 W. McMurray Rd., McMurray, PA 15317

WCR Vol 104 Issues 45,46,47

**Filippelli, Mary Ruth**

a/k/a Mary R. Filippelli  
Late of Monongahela  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Anna M. Filippelli, 140 Sugar Run Rd., Eighty Four, PA 15330  
Attorney: Blane A. Black, Esq., 223 Second St., Monongahela, PA 15063

WCR Vol 104 Issues 45,46,47

**Gobrish, Michael Joseph**

Late of Lawrence  
Washington Co., PA  
File No. 63-24-0714

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Krista Irene Papa c/o Attorney: L. Dawn Haber, Esq., Akman & Assoc., LLC Law Offices, 345 Southpointe Blvd., Ste. 100, Canonsburg, PA 15317

WCR Vol 104 Issues 45,46,47

**Haladyna, Mavis Ann**

Late of Amwell Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attor-

ney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Rudolph S. Haladyna c/o Attorney: Frank C. Roney, Jr., Esq., 382 W. Chestnut St., Ste. 102, Washington, PA 15301

WCR Vol 104 Issues 45,46,47

**Hoy, Nancy Lou**

a/k/a Nancy Lou Barr  
Late of North Franklin Twp.  
Washington Co., PA  
File No. 63-24-00296

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Carla J. Armstrong, 181 Harding Ave., Washington, PA 15301

WCR Vol 104 Issues 45,46,47

**Jacobs, Randy T.**

Late of Dunlevy Borough  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Sherry E. Mouyard, 26 Holly Dr., Charleroi, PA 15022  
Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 45,46,47

**Knox, Kathleen I.**

Late of Washington  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make

known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Tiffany Ann Dahmen, 424 Fox Ridge Dr., Canonsburg, PA 15317  
Attorney: Elisabeth H. Wagers, Esq., Wolf, Wagers & Wolf, 1500 Ashwood Dr., Ste. 1501, Canonsburg, PA 15317

WCR Vol 104 Issues 45,46,47

**Koenemund, William Charles**

a/k/a William C. Koenemund  
Late of Canonsburg  
Washington Co., PA  
File No. 63-23-0832

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: John Koenemund a/k/a John Paul Koenemund, 529 Panorama Dr., Canonsburg, PA 15317  
Attorney: Stephen J. Taczak, Esq., Taczak Law Office LLC, 12 N. Jefferson Ave., Canonsburg, PA 15317

WCR Vol 104 Issues 45,46,47

**MacDonald, Charlene G.**

a/k/a Charlene Grace MacDonald  
aka Charlene MacDonald  
Late of North Franklin Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Janet L. Preteroti, 3095 Investors Rd., Washington, PA 15301  
Attorney: Matthew J. Madvay, Esq., 60 East Beau St., Washington, PA 15301

WCR Vol 104 Issues 45,46,47

**Maryanski, Margaret Jean**

Late of Canton Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Juanita J. Karluk, 985 Bruce St., Washington, PA 15301  
Attorney: Jeffrey P. Derrico, Esq., Greenlee Derrico Posa, LLC, 60 E. Beau St., Washington, PA 15301

WCR Vol 104 Issues 45.46.47

**Miles, Kelli A.**

a/k/a Kelli Miles  
Late of Washington  
Washington Co., PA  
File No. 63-24-00725

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Daniel Cope, 1176 Kings Bottom Dr, Fort Mill, SC 29715  
Attorney: Betty A. Dillon, Esq., 1725 Washington Rd., Ste. 503, Pittsburgh, PA 15241

WCR Vol 104 Issues 45.46.47

**Miller, Rose Marie**

a/k/a Rose Miller  
Late of Monongahela  
Washington Co., PA  
File No. 63-24-0664

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor

without delay.

Executor: Joseph Berkich, 309 Woodland Rd., Daisytown, PA 15427

WCR Vol 104 Issues 45.46.47

**Pearson, Marilyn M.**

Late of South Strabane Twp.  
Washington Co., PA  
File No. 63-24-0748

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Mary Margaret Gleason c/o  
Attorney: Charles T. Clark, Esq., 210 Fifth Ave., Tarentum, PA 15084

WCR Vol 104 Issues 45.46.47

**Pinkney, Harold G.**

Late of West Bethlehem Twp.  
Washington Co., PA  
File No. 63-24-00728

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Penny S. Astorina, 27 Becker St., Houston, PA 15342  
Attorney: Mark S. Riethmuller, Esq., Speakman, Riethmuller & Allison, 6 South Main St., Ste. 614, Washington, PA 15301

WCR Vol 104 Issues 45.46.47

**Reese, Larry**

a/k/a Larry E. Reese  
Late of Washington  
Washington Co., PA  
File No. 63-24-00742

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having

claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Chad Edward Reese, 4 Hawley Lane, Morgantown WV 26505  
Attorney: Kevin Richman, Column, 9450 SW Gemini Dr. PMB 79042, Beaverton, OR 97008

WCR Vol 104 Issues 45.46.47

**Smith, Paul**

Late of Finleyville  
Washington Co., PA  
File No. 63-24-00345

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Janice A. Revelle, 42 Ingle-side Shore Rd., Fox Lake, IL 60020  
Attorney: Andrew Kuzma, Esq., 200 N. 2nd Ave., Elizabeth, PA 15037

WCR Vol 104 Issues 45.46.47

**Stillitano, Antionette**

a/k/a Antionette F. Stillitano  
Late of Charleroi  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Brittany Mucy, 1670 Kelton Ave., Pittsburgh, PA 15216  
Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 45.46.47

**Valdiserri, Edwina E.**

a/k/a Edwina Valdiserri

Late of Monongahela  
Washington Co., PA  
File No. 63-24-0665

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Orienne Cattaneo, 111 Prosser Dr., Monongahela, PA 15063  
Attorney: James N. Falcon, Esq., 22-24 S. Fourth St., Youngwood, PA 15697

WCR Vol 104 Issues 45.46.47

**Weis, Carol Jean**

a/k/a Carol J. Weis  
Late of Venetia  
Washington Co., PA  
File No. 63-24-0699

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Lorraine Ascencio AKA Lorraine C. Ascencio, 114 Bittersweet Circle, Venetia, PA 15367

Attorney: Justine Ellis, Esq., Zacharia Brown Law Offices, 111 W. McMurray Rd., McMurray, PA 15317

WCR Vol 104 Issues 45.46.47

**TRUST NOTICE****LEGAL TRUSTEE NOTICE**

**THE REVOCABLE TRUST OF THE GARY FAMILY TRUST DATED April 29, 2020, THE LAST SURVIVING TRUSTEE, RUSSELL A. GRAY, DIED ON April 17, 2024**

Russell A. Gray, late of the Borough of North Charleroi, Washington County, Pennsylvania, now deceased, having cre-

ated The Gray Family Trust, a Revocable Trust dated April 29, 2020, with his late wife, Joyce A. Gray, who predeceased him, and having appointed James C. Gray, as Successor Trustee. Notice is hereby given of the administration of The Gray Family Trust dated April 29, 2020, James C. Gray, Trustee. Notice is hereby given to all persons having claims against this Trust or who are indebted to said Trust to make known the same to the Successor Trustee, James C. Gray, or the Attorney named below. All persons indebted to this Trust are requested to make payment without delay to the Successor Trustee or the Attorney named below.

James C. Gray, Successor Trustee  
1343 Mill Pond Way  
Palmyra, PA 17078  
(717) 215-4153

Jack L. Bernstein, Esquire  
33 Colonial Drive  
Monessen, PA 15062  
(724) 518-0623

WCR Vol 104 Issue 45,46,47

## **SECOND PUBLICATION**

**Andy, James L.**  
Late of Washington  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Lisa Lynn Kawecki, 105 Fairway Ln., Royal Palm Beach, FL 33411  
Attorney: Bradley M. Bassi, Esq., Bassi, Vreeland & Assoc., P.C., P.O. Box 144, 111 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 44,45,46

**Andy, Mary J.**  
a/k/a Mary June Andy

Late of Washington  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Lisa Lynn Kawecki, 105 Fairway Ln., Royal Palm Beach, FL 33411  
Attorney: Bradley M. Bassi, Esq., Bassi, Vreeland & Assoc., P.C., P.O. Box 144, 111 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 44,45, 46

**Bennett, Mark Leslie**  
Late of Roscoe  
Washington Co., PA  
File No. 63-24-00649

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Jenna Trifiro a/k/a Jenna Lynn Trifiro c/o  
Attorney: William M. Martin, Esq., Radcliffe Martin Law, LLC, 648 Morgantown Rd., Ste. B, Uniontown, PA 15401

WCR Vol 104 Issues 44,45,46

**Beveridge, Helen T.**  
Late of Centerville Borough  
Washington Co., PA  
File No. 63-24-00677

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Beth Ann Carey, P.O. Box 396, Richeyville, PA 15358  
Attorney: Mark S. Riethmuller, Esq.,

Speakman, Riethmuller & Allison, 6  
South Main St., Ste. 614, Washington, PA  
15301

WCR Vol 104 Issues 44,45,46

**Chatman, Devonia Evelyn**  
a/k/a Ann Chatman  
Late of Washington  
Washington Co., PA  
File No. 63-24-0418

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Alexander A. Chatman Jr., 416 Chickadee St., Crestview, FL 32539

WCR Vol 104 Issues 44,45,46

**Conaway, Margaret L.**  
Late of Dunlevy  
Washington Co., PA  
File No. 63-24-0554

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Roy D. Conaway, Jr., PO Box 136, Allenport, PA 15412  
Attorney: James W. Haines, Jr., 1202 W. Main St., Monongahela, PA 15063

WCR Vol 104 Issues 44,45,46

**Freville, Robert D.**  
Late of Midway  
Washington Co., PA  
File No. 63-24-0619

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Nicole Lynn Sands, 116 Terrace St., McDonald, PA 15057  
Attorney: James P. Weaver, Jr., Esq., 157 S. Main St., Washington, PA 15301

WCR Vol 104 Issues 44,45,46

**Growden, Robert John**  
a/k/a Robert J. Growden, Sr.  
Late of Midway  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Robert J. Growden, Jr. c/o  
Attorney: Frank C. Roney, Jr., Esq., 382 W. Chestnut St., Ste. 102, Washington, PA 15301

WCR Vol 104 Issues 44,45, 46

**Hodge, Shirley M.**  
Late of Venetia  
Washington Co., PA  
File No. 63-24-0624

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Maryann Mahoney c/o  
Attorney: Jamie M. Drennen, Esq., Strassburger McKenna Gutnick & Gefsky, 444 Liberty Ave., Ste. 2200, Pittsburgh, PA 15222

WCR Vol 104 Issues 44,45,46

**Roberts, Dolores M.**  
Late of Washington  
Washington Co., PA  
File No. 63-24-0634

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

dent to make payment to the Executor without delay.

Executor: Steven J. Roberts, 59 Ramsey Rd., Washington, PA 15301  
Attorney: Clark A. Mitchell, Esq., Clark A. Mitchell, JR., Esq., Mitchell Law Group, LLC, 17 South College St., Washington, PA 15301

WCR Vol 104 Issues 44,45,46

**VanVoorhis, Thomas M.**

Late of Eighty Four, Somerset Township Washington Co., PA  
File No. 63-24-0646

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Tim R. VanVoorhis, 34 Pigeon Creek Rd., Eighty Four, PA 15330  
Attorney: Dorothy A. Milovac, Esq., Peacock Keller, LLP, 95 West Beau St., Ste. 600, Washington, PA 15301

WCR Vol 104 Issues 44,45,46

**Vukelja, Michael Joseph**

a/k/a Michael J. Vukelja  
Late of Union Twp.  
Washington Co., PA  
File No. 63-24-0468

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Lori A. Lloyd, 3491 Frye Ave., Finleyville, PA 15332

WCR Vol 104 Issues 44,45, 46

**THIRD PUBLICATION**

**Amos, Irene Kathryn**

a/k/a Irene K. Amos a/k/a Irene G. Amos  
Late of West Alexander  
Washington Co., PA  
File No. 63-24-0600

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Charles E. Amos, 38 W. Alexander Loop, West Alexander, PA 15376  
Attorney: Dorothy A. Milovac, Esq., Peacock Keller, LLP, 95 West Beau St., Ste. 600, Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**D'Amico, Gloria**

Late of Canonsburg  
Washington Co., PA  
File No. 63-24-00591

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Linda M. Romano a/k/a Linda Marie Romano, 717 Mission Hills Dr., Canonsburg, PA 15317  
Attorney: James P. Liekar, Esq., 38 W. Pike St., Canonsburg, PA 15317

WCR Vol 104 Issues 43,44,45

**Dolan, Odessa E.**

a/k/a Odessa Elizabeth Dolan  
a/k/a Betty Dolan  
Late of North Bethlehem Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Betty Lou Amorose, PO Box

63, Cokeburg, PA 15324  
Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 43,44,45

**Douglas, Lynne Ann**

a/k/a Lynne Douglas  
a/k/a Lynne A. Douglas  
Late of Houston  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Robert Steven Douglas, 1015 Highland Dr, Canonsburg, PA 15317  
Attorney: Angela D. Kusturiss, Esq., Kusturiss Law Firm, 12 North Jefferson Ave., Canonsburg, PA 15317

WCR Vol 104 Issues 43,44,45

**Fallon, Mary D.**

Late of Canonsburg  
Washington Co., PA  
File No. 63-24-0425

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Colleen M. Ferrari, 406 Spruce Lane, Canonsburg, PA 15317  
Attorney: Mary Margaret Isabella, Esq., Ste. 206, The Manor, 4701 Baptist Rd., Pittsburgh, PA 15227

WCR Vol 104 Issues 43,44,45

**Golaski, David Lee**

Late of Canton Twp.  
Washington Co., PA  
File No. 63-24-0623

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having

claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Daniel Golaski c/o  
Attorney: Daniel A. Seibel, Esq., Citron Alex PC, 301 Grant St., Ste. 1225, Pittsburgh, PA 15219

WCR Vol 104 Issues 43,44,45

**Hanas, Leila Jean**

Late of Peters Twp.  
Washington Co., PA  
File No. 63-24-0558

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Michael W. Daniels, 327 Buffalo Ridge Road, Canonsburg, PA 15317  
Attorney: Eva H. Ahern, Esq., Peacock Keller, LLP, 95 West Beau St., Ste. 600, Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Hawk, Lynne Bernadette**

a/k/a Lynne B. Hawk  
Late of Carroll Twp.  
Washington Co., PA  
File No. 63-24-0371

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administrator or attorney, and all persons indebted to the decedent to make payment to the Administrator without delay.

Administrator: Carrie Morrow a/k/a Carrie L. Morrow, 28 Columbus Dr., Monessen, PA 15062

Attorney: Mark E. Ramsier, Esq., 823 Broad Ave., Belle Vernon, PA 15012

WCR Vol 104 Issues 43,44,45

**Husak, Mark Lee**

a/k/a Mark Husak

Late of Vestaburg  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Rebecca Lynne Husak,  
117 3rd St., PO Box 397, Vestaburg, PA  
15368

Attorney: Matthew J. Madvay, Esq.,  
60 E. Beau St., Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**King, James Robert**

a/k/a Jim R. King  
Late of Canonsburg  
Washington Co., PA  
File No. 63-24-00430

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Kristy L. Terling, 578 Arthur  
Rd., Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Knestrick, David W.**

a/k/a David Wayne Knestrick  
Late of Amwell Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Joanne Cage, 1047 Lynn  
Portal Rd., Washington, PA 15301  
Attorney: Cary D. Jones, Esq., Marriner,  
Jones & Fitch, 6 S. Main St., Ste. 600,  
Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Loether, Charles Herbert**

a/k/a Charles Loether  
a/k/a Charles H. Loether  
Late of Canonsburg  
Washington Co., PA  
File No. 63-24-00330

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Patricia Jean Loether,  
1287 Meadowbrook Dr., Canonsburg,  
PA 15317  
Attorney: Emmanuel S. Anthou, Esq.,  
Anthou Legal Services, LLC, 165  
McClelland Rd., Canonsburg, PA  
15317

WCR Vol 104 Issues 43,44,45

**MacBeth, James Bart**

a/k/a Jim MacBeth  
Late of McMurray  
Washington Co., PA  
File No. 63-24-00298

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: James Bruce MacBeth, P.O.  
Box 335, 241 McClain St., Claysville,  
PA 15323

Attorney: Lynn E. MacBeth, Esq., 3536  
Ridgewood Dr., Pittsburgh, PA 15235

WCR Vol 104 Issues 43,44,45

**Nicolella, Concetta M.**

Late of Washington  
Washington Co., PA  
File No. 63-23-1757

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted

to the decedent to make payment to the Executrix without delay.

Executrix: Diann Ritz-Nicolella, 4004 Sir  
James Dr., McDonald, PA 15057  
Attorney: Dorothy A. Milovac, Esq., Pea-  
cock Keller, LLP, 95 West Beau St., Ste.  
600, Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Perowski, Theresa M.**

Late of East Bethlehem Twp  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Rita A. Perowski a/k/a Rita  
Ann Perowski, 20 Baker St., Fredrick-  
town, PA 15333

Attorney: David B. Bassi, Esq., Bassi,  
Vreeland & Assoc., P.C., P.O. Box 144,  
111 Fallowfield Ave., Charleroi, PA  
15022

WCR Vol 104 Issues 43,44,45

**Rising, David Charles**

a/k/a David C. Rising  
a/k/a David Rising  
Late of Eighty-Four  
Washington Co., PA  
File No. 63-24-00658

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Deborah Conley, 4649 Mead-  
owgreen Dr., Pittsburgh, PA 15236  
Attorney: Alan I. Farber, Esq., 5301  
Grove Rd., Ste. M-106 Caste Village,  
Pittsburgh, PA 15236

WCR Vol 104 Issues 43,44,45

**Roach, Mary Lou**

Late of Smith Twp.

Washington Co., PA  
File No. 63-24-0638

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrices or attorney, and all persons indebted to the decedent to make payment to the Executrices without delay.

Executrices: Jacqueline S. Takah, 1400  
Smith Township State Rd., Burgettstown,  
PA 15021, Kathy Howden Retos, 409  
North Wade Ave., Washington, PA  
15301,  
Attorney: Sarah M. Benedetti, Esq., Ter-  
shel & Assoc., 55 South Main St., Wash-  
ington, PA 15301

WCR Vol 104 Issues 43,44,45

**Shemloff, Mary Ann**

Late of Donora  
Washington Co., PA  
File No. 63-24-0421

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executrix or attorney, and all persons indebted to the decedent to make payment to the Executrix without delay.

Executrix: Ruth Ann Yatsko, 249  
McKean Ave., Donora, PA 15033  
Attorney: Thomas B. Kostolansky, Esq.,  
617 McKean Ave., Donora, PA 15033

WCR Vol 104 Issues 43,44,45

**Stelma Jr., Walter F.**

a/k/a Walter Frank Stelma Jr.  
Late of Charleroi Borough  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Walter F. Stelma III, 609  
Speers Ave., Charleroi, PA 15022

Attorney: Richard C. Mudrick, Esq., 300  
Fallowfield Ave., Charleroi, PA 15022

WCR Vol 104 Issues 43,44,45

**Tennant, Fern M.**

Late of Amwell Twp.  
Washington Co., PA  
File No. 63-24-0035

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Co-Executors or attorney, and all persons indebted to the decedent to make payment to the Co-Executors without delay.

Co-Executors: Diane S. Huffman a/k/a Diane Sue Huffman, 310 Hickory Hollow Rd., Amity, PA 15311, Donald F. Tennant, Jr., 576 Amity Ridge Rd., Amity, PA 15311,  
Attorney: E.J. Julian, Esq., Julian Law Firm, 71 N. Main St., Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Vaccaro, Dennis Edward**

a/k/a Dennis Vaccaro  
Late of Monongahela  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Administratrix or attorney, and all persons indebted to the decedent to make payment to the Administratrix without delay.

Administratrix: Alisha Vaccaro, 533 Park Ave., Monongahela, PA 15063  
Attorney: Richard C. Mudrick, Esq., 300 Fallowfield Ave., Charleroi, PA 153022

WCR Vol 104 Issues 43,44,45

**Vaughan, Margot Anne**

a/k/a Margot A. Vaughan  
Late of Cecil  
Washington Co., PA  
File No. 63-23-01886

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make

known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Robert Alan Vaughan c/o  
Attorney: Karen S. Timko, Certified Elder Law Attorney, Julian Gray Assoc., 954 Greentree Rd., Pittsburgh, PA 15220

WCR Vol 104 Issues 43,44,45

**Wilson, Dana A.**

a/k/a Dana Arvin Wilson  
Late of Washington  
Washington Co., PA  
File No. 63-24-0582

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Billie R. Wilson, 770 Lynn Portal Rd., Washington, PA 15301  
Attorney: James H. McCune, Esq. and Kathryn A. Gioia, Esq., Bowles Rice LLC, 1800 Main St., Ste. 200, Canonsburg, PA 15317

WCR Vol 104 Issues 43,44,45

**Wylie, Joyce F.**

a/k/a Joyce Faye Wylie  
Late of Chartiers Twp.  
Washington Co., PA

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Terry Dunkle a/k/a Terry R. Dunkle, 304 Western Ave., Houston, PA 15342

Attorney: Jeffrey P. Derrico, Esq., Greenlee Derrico Posa, LLC, 60 E. Beau St., Washington, PA 15301

WCR Vol 104 Issues 43,44,45

**Yarkosky, Ronald J.**

Late of Canonsburg  
Washington Co., PA  
File No. 63-24-00573

The Register of Wills has granted Letters on the Estate of the Decedent. Notice is hereby given to request all persons having claims against the decedent to make known the same to the Executor or attorney, and all persons indebted to the decedent to make payment to the Executor without delay.

Executor: Marsha L. Vorum a/k/a Marsha Lynn Vorum a/k/a Marsha Y. Vorum c/o  
Attorney: Daniel M. Flynn, Esq., Michael D. Flynn & Assoc., P.C., 2770 South Park Rd., Bethel Park, PA 15102-3839

WCR Vol 104 Issues 43,44,45

## REAL PROPERTY NOTICE

### NOTICE OF SALE BY AUCTION

LEGAL NOTICE: Trigild IVL Group, LLC, in its capacity as the court appointed receiver in CIVIL ACTION NO. 2:21-cv-00237-RJC pending in the United States District Court for the Western District of Pennsylvania (the "Receiver") has entered into an auction agreement with Ten-X, LLC ("Ten-X"), with respect to real and other property located at 19 Main Street, Ellsworth, Pennsylvania 15331, and known as the Park View Apartments (the "Property"). The auction of the Property (the "Auction") will be conducted online at www.ten-x.com between May 28, 2024 and May 30, 2024. SALE OF THE PROPERTY IS SUBJECT TO APPROVAL BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA. Should any person wish to submit an Auction bid for the purchase of the Property, the interested party must participate in the Ten-X online Auction. For further information regarding the auction, contact Joseph Cuomo, Senior Managing Director, Ten-X, at (305) 503-2637.

WCR Vol 104 Issues 44,45,46,47

## TPR NOTICE

### PUBLIC NOTICE

IN THE COURT OF COMMON  
PLEAS OF WASHINGTON COUNTY,  
PENNSYLVANIA  
ORPHANS' COURT DIVISION

IN RE: LYNOLN STOERNELL  
a/k/a LYNOLN ALEXANDER  
STOERNELL

D.O.B. 1/23/2017, PLACE OF BIRTH:  
WASHINGTON COUNTY,  
PENNSYLVANIA

MALE CHILD OF: ASHLEE CHILDS  
A/K/A ASKLEE C. CHILDS A/K/A  
ASHLEE CATHERINE CHILDS A/K/  
S ASHLEE C. CHILES A/K/A ASH-  
LEE CATHERINE CHILES AND JA-  
COB STOERNELL A/K/A JACOB W.

**STOERNELL A/K/A JACOB WILLIAM STOERNEL****NO: 63-24-0428**

Take notice that a Petition for Involuntary Termination of Parental Rights of Parents, ASHLEE CHILDS A/K/A ASKLEE C. CHILDS A/K/A ASHLEE CATHERINE CHILDS A/K/S ASHLEE C. CHILES A/K/A ASHLEE CATHERINE CHILES AND JACOB STOERNELL A/K/A JACOB W. STOERNELL A/K/A JACOB WILLIAM STOERNEL, will be presented to the Orphans' Court of Washington County, Pennsylvania. Any person wishing to assert parental rights should appear in Courtroom No. 7 of the Washington County Courthouse, Washington, Pennsylvania, for a hearing as to the same on June 14, 2024, at 1:00 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 present.

You have the right to be represented at the hearing by an attorney. You should take this notice to your attorney at once. If you do not have an attorney or cannot afford representation, contact the Southwestern Pennsylvania Legal Aid Society, 10 West Cherry Avenue, Washington, Pennsylvania, 15301, (724) 225-6170, to find out where you can obtain legal help.

You have a right to obtain a copy of the Petition for Involuntary Termination of Parental Rights prior to the hearing. To obtain a copy of the petition, contact Washington County Children & Youth Social Services Agency, Legal Department, 95 West Beau Street, suite 300, Washington, PA 15301, Telephone: (724) 228-6884.

Nicole Wenzel, Caseworker  
Washington County Children & Youth  
Social Service Agency  
95 West Beau Street  
Suite 300  
Washington, PA 15301  
Telephone: 724-228-6884

\_\_\_\_\_  
WCR Vol 104 Issue 45

**NAME CHANGE NOTICE**

Notice is hereby give that on the date of April 26, 2024, a Petition was filed with the Court of Common Pleas of Washington County, Pennsylvania, Civil Division, at Docket No. 2024-2807 by the Petitioner **Ian Stewart Snyder** for a change of name to Mia Snyder. The Court has fixed the date of June 28, 2024 and time of 9:00 am in Courtroom #4 in the Washington County Courthouse, Washington, Pennsylvania, for the hearing on said Petition. Any and all persons interested may appear and show cause, if any, why the request of the Petitioner should not be granted.

\_\_\_\_\_  
WCR Vol 104 Issue 45