

LACKAWANNA JURIST

JUDICIAL OPINION

CASE NAME AND NUMBER: DelGuercio v. Tio, 2021 WL 3809138 (Lacka. Co. 2021)

DATE OF DECISION: August 19, 2021

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Andrew S. Youman, Esquire, Heather K. D'Onofrio, Esquire, Counsel for Plaintiffs

Johnathan E. Weiss, Esquire, Steve Ryan, Esquire, Counsel for Defendants, Vincent Tio, D.O. and Pennsylvania Physicians Services, LLC

Stuart T. O'Neal, Esquire, Courtney C. Barbacane, Esquire, Amy Redington Riley, Esquire, Counsel for Defendants, Scranton Quincey Hospital Company, LLC d/b/a Moses Taylor Hospital

SUMMARY OF OPINION:

Plaintiffs assert in this malpractice action that defendants failed to timely diagnose and properly treat the female plaintiff's classic signs and symptoms of arterial thromboembolism and blockage of the right upper extremity in the emergency room, and instead prematurely discharged her with an incorrect diagnosis of Raynaud's Phenomenon. Shortly thereafter, she collapsed from thromboembolic stroke and was transferred to Thomas Jefferson University Hospital for an emergent decompressive hemicraniectomy and removal of a portion of her skull, which has left her with permanent neurological damage. Defendants filed motions *in limine* seeking to preclude evidence of (1) statements made by plaintiff's husband to the attending physician at Thomas Jefferson that she had complained of ischemic symptoms of her left hand (excruciatingly painful and intermittently purple in the absence of temperature fluctuations) at the defendant's emergency room, and (2) the husband's testimony regarding the wife's symptoms and complaints in the emergency room and immediately following her discharge.

Pa.R.E. 803(4), "Statement Made for Medical Diagnosis or Treatment," allows for the admission of hearsay statements made for and reasonably pertinent to medical diagnosis or treatment, including descriptions of symptoms or medical history. The statements at issue need not be made by the incapacitated patient in order to be admissible under the medical treatment exception. Additionally, Pa.R.E. 803(3) establishes a hearsay exception for any "statement of the declarant's then-existing . . . emotional, sensory or physical condition (such as mental feeling, pain, or bodily health," provided that the statement is made contemporaneously with the mental or physical condition. Since the challenged hearsay statements and testimony were admissible under the medical treatment exception and Rule 803(3), defendants' motion *in limine* was denied.

JUDICIAL OPINION

CASE NAME AND NUMBER: Rao v. Menzel, 2021 WL 4150219 (Lacka. Co. 2021)

DATE OF DECISION: September 13, 2021

JUDGE: Terrence R. Nealon

ATTORNEYS INVOLVED:

Gregory A. Germain, Esquire, Brice C. Paul, Esquire, Counsel for Plaintiff

Howard A. Rothenberg, Esquire, Dave W. Rothenberg, Esquire, Counsel for Defendant

SUMMARY OF OPINION:

Two former cardiology practice partners formed a commercial real estate partnership in the early 1990s pursuant to a partnership agreement that granted them equal ownership and required them to make equal cash contributions to capital and to thereafter maintain separate capital accounts in equally funded amounts. Upon discovering that defendant's capital account was underfunded by \$501,325.00, plaintiff filed this action asserting claims for breach of contract and dissolution of the partnership based upon defendant's wrongful dissociation. Defendant filed a motion for summary judgment seeking to dismiss this matter on the grounds that the partnership agreement could only be construed as creating a "cash capital account," and that such an account could not serve as a basis for plaintiff's requested relief.

The language of the partnership agreement arguably imposed a contractual duty upon defendant to maintain a "capital account" in an amount equal to plaintiff's "capital account" balance, and the summary judgment record contained triable issues of fact as to whether defendant breached that duty. If parol evidence was considered to clarify any ambiguity in that regard, the conflicting expert opinions procured by the parties served to establish credibility and weight of the evidence determinations for the trier of fact to resolve in construing the partnership agreement. In addition, the record likewise reflected genuine issues of fact as to defendant's alleged breach of his statutory duties of loyalty, care, good faith, and fair dealing, and plaintiff's consequential claims for wrongful dissociation and dissolution. Accordingly, defendant's motion for summary judgment was denied.

LACKAWANNA JURIST

ESTATES

First Notice

Notice is hereby given that Letters Testamentary have been granted in the **ESTATE OF ALBERT ANTHONY CORTEZ** late of Fell Township, Lackawanna County, Commonwealth of Pennsylvania (died September 25, 2021). All persons indebted to the Estate are requested to make payments and all those having claims or demands are to present the same, without delay to Cecelia Cortes, Executrix of the Estate or Jeffrey W. Nepa, Esquire, Attorney for the Estate, 41 N. Main Street, 4th Floor, Carbondale, PA 18407.

ESTATE OF CARMEN PERRY DeNAPLES, Late of Scranton, Lackawanna County, Pennsylvania (Died March 4, 2021). Letters Testamentary has been granted to Roxanne DeNaples, Administratrix. All persons having claims against the Estate or indebted to the Estate shall make payment or present claims to Douglas P. Thomas, Attorney for the Estate, 345 Wyoming Avenue, Suite 200, Scranton, PA 18503.

ESTATE OF MARIO LUPIA, ESTATE NUMBER 35-2021-1443, DECEASED, LATE OF DUNMORE, LACKAWANNA COUNTY, PA: DIED SEPTEMBER 3, 2021. NOTICE IS HEREBY GIVEN THAT LETTERS TESTAMENTARY HAVE BEEN GRANTED IN THE ABOVE ESTATE. ALL PERSONS INDEBTED TO SAID ESTATE ARE REQUIRED TO MAKE PAYMENTS, AND THOSE HAVING CLAIMS OR DEMANDS ARE TO PRESENT THE SAME WITHOUT DELAY TO LISA HANSON, 7 SHAWGER ROAD, DENVILLE, NJ 07834.

Notice is hereby given that Letters Testamentary have been granted to Mary McLaughlin in the **ESTATE OF JOSEPH McLAUGHLIN**, late of Carbondale, Pennsylvania, who died on April 15, 2020. All persons indebted to the Estate are requested to make payment and those having claims or demands are to present the same without delay to Mary McLaughlin, Executrix c/o Sean P. McDonough, Esquire, 75 Glenmaura National Boulevard, Moosic, Pennsylvania 18507.

ESTATE OF PATRICIA MUNLEY, late of Scranton, Pennsylvania, (died August 23, 2021). Letter of Administration have been granted to Kathryn Walter, Administratrix of the Estate, who requests all persons having claims or demands against the Estate of the Decedent to make known the same, and all persons indebted to the Decedent to make payments without delay to the Executrix named herein or to James J. Conaboy, Esquire, Attorney for the Estate, at 1006 Pittston Avenue, Scranton, PA 18505.

ESTATE OF DONALD L. STEVENS, late of Taylor, Lackawanna County, Pennsylvania (died September 4, 2021). Letters Testamentary having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Cathy Widdick, Executor, 87 Marimar Drive, Old Forge Pennsylvania, 18518, or to James J. Gillotti, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF ALICE WARDACH a/k/a ALICE E. WARDACH, of S. Abington Township, Pennsylvania (died July 15, 2021). All persons indebted to the estate shall make payment and those having claims or demands are to present the same without delay to the Executrix, Carol Wardach, or Richard A. Fanucci, Attorney for the Estate, 1711 Main Street, Blakely, PA 18447.

ESTATE OF CAROLINE ZANGARDI a/k/a CAROLINE C. ZANGARDI, of Dunmore, Pennsylvania (died April 25, 2021). All persons indebted to the estate shall make payment and those having claims or demands are to present the same without delay to the Administrator, Adam T. Stefanski, or Richard A. Fanucci, Attorney for the Estate, 1711 Main Street, Blakely, PA 18447.

NOTICE IS HEREBY GIVEN THAT Letters Testamentary have been granted in the **ESTATE OF JAMES M. ZIPAY**, Deceased, late of 436 Lillibridge Street, Peckville, Pennsylvania, 18452 (died August 30, 2021), and all persons indebted to said estate are requested to make payment, and those having claims to present the sum without delay, to EDWARD ZIPAY, JR., Executor c/o JOHN J. MINORA, ESQUIRE, MINORA KROWIAK MUNLEY & BATYKO, 700 Vine Street, 18510, Attorney for the estate.

Second Notice

ESTATE OF MURIEL ANN CALAME a/k/a MURIEL A. CALAME, late of Clifton Township, Lackawanna County, PA (April 18, 2021). Notice is hereby given that Letters Testamentary on the above Estate have been granted to Sean O'Brien. All persons indebted to the said estate are required to make payment and those having claims to present the same without delay to the Executrix named above or to Timothy B. Fisher II, Esquire, Fisher & Fisher Law Offices LLC, Attorneys for the Estate, 525 Main Street, PO Box 396, Gouldsboro, PA 18424.

ESTATE OF ROSANNE CECH-BOROWSKI a/k/a ROSANNE CECH a/k/a ROSANNE BOROWSKI, late of South Abington Township, Lackawanna County, PA. Gregory D. Borowski, 302 Beech Circle, South Abington Township, PA 18411, Executor; Nicholas A. Barna, 207 Tenth Street, Honesdale, PA 18431, Attorney.

ESTATE OF RUSSELL DAVID, late of Scranton, Pennsylvania (died August 24, 2021). All creditors are requested to present their claims and all persons indebted to the decedent will make payment to William Green, Executor; or to John J. Brazil, Jr., attorney for the Estate, 712 Main Street, Suite 1, Moosic, Pennsylvania 18507.

RE: ESTATE OF DONNA M. GIANZANTI, late of Dunmore, Lackawanna County, Pennsylvania (died May 13, 2021). Notice is hereby given that Letters of Administration for the Estate have been issued to Paul Gianzanti, Administrator of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Administrator, or to John J. McGovern, Jr., Attorney for the Estate, 321 Spruce Street-Suite 201, Scranton, PA 18503.

ESTATE OF MARIE GILLETTE, A/K/A MARIE A. GILLETTE, late of Carbondale, Lackawanna County, Pennsylvania (died October 1, 2021). Letters Testamentary having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Anthony Imbalzano and James J. Gillotti, Co-Executors, 1222 Pompano Lane, Lady Lake, Florida, 32159, or to James J. Gillotti, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF GAIL A. LEARN late of Peckville, Pennsylvania (died September 5, 2021); Brian A. Learn, Jr., Executor or William J. Rinaldi, Esquire, Attorney for the Estate, Suite 600, 538 Spruce Street, Scranton, PA 18503.

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IN RE: ESTATE OF ARLENE MILLER, a/k/a Arlene M. Miller, late of Scranton, Pennsylvania, died August 18, 2021. Notice is hereby given that Letters Testamentary, on the above listed Estate to Theresa J. Malski-Pezak, Esq. All persons indebted to the said Estate are required to make payment and those having claims to present the same without delay to Theresa J. Malski-Pezak, Esquire, 907 Church Street, Jessup, Pennsylvania 18434.

Notice is hereby given that Letters Testamentary have been granted to Joseph M. McLaughlin, III, in the **ESTATE OF JOSEPH M. McLAUGHLIN**, late of Moosic, Pennsylvania, who died on September 16, 2021. All persons indebted to the Estate are requested to make payment and those having claims or demands are to present the same without delay to Joseph M. McLaughlin, III, Executor c/o John P. Finnerty, Esquire, 75 Glenmaura National Boulevard, Moosic, Pennsylvania 18507.

Notice is hereby given that Letters Administration have been granted to John Petroshek, in the **ESTATE OF BRIAN J. PETROSHUK**, late of Scranton, Pennsylvania, who died on May 25, 2021. All persons indebted to the Estate are requested to make payment and those having claims or demands are to present the same without delay to John Petroshek, Executor c/o John P. Finnerty, Esquire, 75 Glenmaura National Boulevard, Moosic, Pennsylvania 18507.

NOTICE IS HEREBY GIVEN that Letters Testamentary in the **ESTATE OF DONALD F. QUINN** late of Dalton, Lackawanna County, Pennsylvania, have been granted to the undersigned. All persons indebted to said estate are required to make immediate payment and those having claims shall present them for settlement to:

THOMAS QUINN, ADMINISTRATOR

BRENDA D. COLBERT, Esquire

COLBERT & GREBAS, P.C.

210 Montage Mountain Road – Suite A
Moosic, PA 18507

Date of Death: August 27, 2021.

ESTATE OF WILLIAM J. RINALDI, Late of Scranton, Lackawanna County, Pennsylvania, (Died August 5, 2021), Letters Testamentary has been granted to Karen Bieniecki, Executrix. All persons having claims against the Estate or indebted to the Estate shall make payment or present claims to Douglas P. Thomas, Attorney for the Estate, 345 Wyoming Avenue, Suite 200, Scranton, PA 18503.

NOTICE IS HEREBY GIVEN that Letters Testamentary, have been granted to Andrea Thompson, Executrix of the **ESTATE OF LILLIAN WIRHANOWSKY**, late of Old Forge, Lackawanna County, Pennsylvania, who died on December 10, 2020. All persons indebted to said Estate are required to make payment and those having claims or demands to present the same without delay to the Co-Executrix or Co-Executor, c/o Girard J. Mecadon, Esquire, 363 Laurel Street, Pittston, PA 18640-1719.

Third Notice

RE: ESTATE OF DENNIS C. AMATO, late of Roaring Brook Township, Pennsylvania (died September 23, 2021). Notice is hereby given that Letters Testamentary for the Estate of Dennis C. Amato have been issued to Scot R. Amato, Executor of the Estate. All those having claims or demands against the Estate or indebtedness owed to the Estate shall present claims or remit payment without delay to the Executor at 511 O'Hara Road, Roaring Brook Township, PA 18444 or to Robert T. Kelly, Jr., Myers, Brier & Kelly, LLP, Attorney for the Estate, 425 Spruce Street, Suite 200, Scranton, PA 18503.

ESTATE OF ETHEL E. CADEN, late of Clarks Summit, Pennsylvania, died on August 14, 2021. All persons having claims against the Estate shall present same to Executor, Rodney T. Caden, c/o Donald W. Jensen, Esquire, 538 Spruce Street, Suite 730, Scranton, Pennsylvania 18503.

NOTICE is hereby given that a Grant of Letter of Administration of the **ESTATE OF ROSEMARIE CAREY**, late of the Borough of Old Forge, County of Lackawanna, Commonwealth of Pennsylvania, who died on August 5, 2021. All persons who are indebted to the Estate are required to make payment, and all those persons having claims against the Estate are to present them without delay to the Administrator, Mark J. Carey, 305 Smith Street, Old Forge, Pennsylvania, 18518 and/or George E. Seig, Esquire, 3317 Birney Avenue, Moosic, Pennsylvania 18507.

ESTATE OF BRIAN FRANK DUGGAN, late of Carbondale, Lackawanna County, Pennsylvania (died September 4, 2021). Personal Representative is Joyce Duggan, 143 South Grant Street, Scranton PA 18504. Attorney for the Estate is Nancy M. Barrasse, Esquire, 224 Adams Avenue, Scranton, Pennsylvania 18503.

ESTATE OF FAY ANN GABLE A/K/A FAY GABLE, late of Taylor, Lackawanna County, Pennsylvania (died September 18, 2020). Letters of Administration having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Darlene G. Williams, Administrator, 101 West Grove Street, Taylor, Pennsylvania 18517 or to Jenn Kraycyer Tuzze, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF PAUL GAUGHAN, late of the City of Scranton, PA (died October 10, 2021). Letters Testamentary on the above estate have been granted, all persons having claims and demands against the estate of the above decedent shall make them know and present them; all of the persons indebted to the said decedent shall make payment thereof without delay to: Paul J. Gaughan, Jr., 1705 Delaware Street, Dunmore, PA 18509. PATRICK J. LAVELLE, ATTORNEY FOR THE ESTATE.

ESTATE OF E. DONALD KOTCHICK, late of Borough of Dunmore, PA (died September 15, 2021). Letters Testamentary on the above estate have been granted, all persons having claims and demands against the estate of the above decedent shall make them know and present them; all of the persons indebted to the said decedent shall make payment thereof without delay to: E. Donald Kotchick, Jr., 1130 N. Middletown Rd., Media, PA 19063 or Christopher J. Kotchick, 103 Meadows Lane, North Abington Twp., PA 18414. PATRICK J. LAVELLE, ATTORNEY FOR THE ESTATE.

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NOTICE is hereby given that a Grant of Letter of Administration of the **ESTATE OF ARLENE C. MARHELSKI**, late of the Borough of Old Forge, County of Lackawanna, Commonwealth of Pennsylvania, who died on July 21, 2021. All persons who are indebted to the Estate are required to make payment, and all those persons having claims against the Estate are to present them without delay to the Administrator, Janice Celmer, 1289 Pittston Avenue, Old Forge, Pennsylvania, 18518 and/or George E. Seig, Esquire, 3317 Birney Avenue, Moosic, Pennsylvania, 18507.

NOTICE IS HEREBY GIVEN that Letters of Administration have been granted in the **ESTATE OF SUZANNE F. MAZZO**, late of Archbald, Lackawanna County, Pennsylvania, who died on November 6, 2019. All persons indebted to said estate are required to make payment and those having claims or demands to present the same without delay to the attorney of the Estate named below. Job T. Stepanski, Esquire, 183 Market Street, Suite 200, Kingston, PA 18704, 570-718-1444.

ESTATE OF JOHN NEALON, Late of Dunmore, died February 29, 2020. Notice is hereby given that Letters of Administration on the above estate have been granted to Paulette Nealon, as Administratrix. All persons indebted to this Estate are required to make payment and those having claims are required to present the same without delay to the Executor named within or to Kelly Hadley, Esq., 345 Wyoming Ave., Scranton, PA 18503.

ESTATE OF WAYNE W. NOVITCH a/k/a WAYNE WILLARD NOVITCH, late of No. 303 Smallacombe Drive, City of Scranton, Lackawanna County, Pennsylvania, Deceased. Letters of Administration on the above estate having been granted to the undersigned, all persons indebted to the estate are requested to make payment, and those having claims to present the same, without delay, to: Carol R. Blatt, 3320 Jones Road, Dunkirk, MD 20754, or to her Attorney: Michael L. Mixell, Esquire, Barley Snyder, 50 North Fifth Street, 2nd Floor, Reading, PA 19601.

NOTICE is hereby given that Letters of Administration have been given in the **ESTATE OF JOSEPH A. SLIVINSKI**, late of Peckville, Lackawanna County, Pennsylvania, who died July 16, 2021. All persons indebted to said Estate are required to make payment, and those having claims or demands, to present the same without delay to the Administratrix, Christine Slivinski, and her attorneys, Hourigan, Kluger & Quinn, P.C., 600 Third Avenue, Kingston, PA 18704.

FANNIE IDA TUNIS a/k/a FANNIE I. TUNIS, late of the City of Scranton, Lackawanna County, Pennsylvania (Died August 20, 2021). Notice is hereby given that Letters Testamentary, on the above Estate, have been granted to Nicholas J. Tunis, Jr., Executor. All persons indebted to the said Estate are required to make payment and those having claims or demands to present the same without delay to the Executor named above, c/o Frank J. Bolock, Jr., Esquire, Bolock Law, 212 Front Street, Clarks Summit, PA 18411, Attorney for the Estate.

ESTATE OF EDWARD F. VOZENILEK A/K/A EDWARD VOZENILEK, late of Clarks Summit, Lackawanna County, Pennsylvania (died June 26, 2021). Letters of Administration having been granted, all persons having claims or demands against estate of decedent shall make them known and present them, and all persons indebted to said decedent shall make payment thereof without delay to Steven Vozenilek, Executor, 312 Argosy Drive, Gaithersburg, MD, 20878 or to Travis M. Eckersley, of Oliver, Price & Rhodes, Attorney for the Estate, 1212 South Abington Road, P.O. Box 240, Clarks Summit, Pennsylvania 18411.

ESTATE OF EUGENE WASELL, Late of Scranton, died August 23, 2020. Notice is hereby given that Letters of Administration on the above estate have been granted to Patricia Wassell, as Administratrix. All persons indebted to this Estate are required to make payment and those having claims are required to present the same without delay to the Administratrix named within or to Kelly Hadley, Esq., 345 Wyoming Ave., Scranton, PA 18503.

LACKAWANNA JURIST

ARTICLES OF INCORPORATION

NOTICE IS HEREBY GIVEN THAT Articles of Incorporation for "AP Container Inc.", have been filed with and accepted by the Department of State of the Commonwealth of Pennsylvania on October 6, 2021, in accordance with the provisions of the Pennsylvania Business Corporation Law of 1988, as amended and supplemented.

Law Office of Joseph F. Gaughan, P.C.
Joseph F. Gaughan, Esquire T-1

ARTICLES OF INCORPORATION

In accordance with the Business Corporation Law of the Commonwealth of Pennsylvania, a corporation by the name of Thrive Bible School, has been organized under the Provisions of the Business Corporation Law of 1988, P.S. 1444, as amended, for the purpose of any and all legal business in the Commonwealth of Pennsylvania including but not limited to consultation and all other items authorized under the Business Law of 1988 as amended. Said Articles of Incorporation having been filed with the Department of State of September 18, 2021.

ALFRED J. HOWELL, Esquire
109 Ninth Street
Honesdale, Pennsylvania 18431
(570) 253-2520 T-1

ARTICLES OF INCORPORATION – NONPROFIT

Notice is hereby given that Articles of Incorporation-Nonprofit were filed on October 25, 2021, with the Department of State of the Commonwealth of Pennsylvania, in accordance with the provisions of the Pennsylvania Nonprofit Corporation Law of 1988 for the incorporation of KATIE'S PLACE CLUBHOUSE under the provisions of Pennsylvania Business Corporation Law of 1988, as amended.

JOSEPH A. O'BRIEN
OLIVER, PRICE & RHODES
P.O. Box 240
Clarks Summit, PA 18411
(570) 585-1200 T-1

NOTICE

South Abington Township
vs.

Linda M. Briskey
No. 2019-50878
Court of Common Pleas
Lackawanna County, PA

Notice is given that the above was named as Defendant in a civil action by Plaintiff to recover 2017-2018 sewer fees for property located at 12 Waterford Road, S. Abington Township, PA, PIN #08102-040-00262. An Amended Writ of Scire Facias for \$1,491.18 was filed. You are notified to plead to the Writ on or before 20 days from the date of this publication or a judgment may be entered. If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by Plaintiff. You may lose money, property, or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICES SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Northeastern PA Legal Services
33 N. Main St., #200, Pittston, PA 18640
570.299.4100

Portnoff Law Assoc., Ltd.
P.O. Box 391
Norristown, PA 19404-0391
866.211.9466 T-3